



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KAHANA HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC FF

Introduction:

Both parties and witnesses attended the hearing and gave sworn testimony. I find the tenant was served with the One Month Notice to End Tenancy dated January 15, 2018 to be effective February 28, 2018 on January 15 and with the Application for Dispute Resolution hearing package both by registered mail. He acknowledged receipt. I find the documents were legally served pursuant to sections 81 and 82 of the *Manufactured Home Park Tenancy Act* (the Act). The landlord applies for orders as follows:

1. An Order of Possession pursuant to Sections 40 and 48; and
2. An order to recover the filing fee pursuant to Section 65.

Issues to be Decided:

Has the landlord proved on the balance of probabilities that there is good cause to end the tenancy and that they are entitled to an Order of Possession and to recover the filing fee for this application?

Background and Evidence:

Both parties and a number of witnesses attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. The parties agreed that monthly rent for the site is \$278 and rent is currently up to date except for \$20 in arrears for the recent increase in rent. The manufactured home is owned by P R who rents it to D. M. D.M.'s tenancy commenced in 2015 under other park owners. The landlord served the One Month Notice to End Tenancy for causes as follows pursuant to section 40 of the Act:

1. The tenant is repeatedly late in paying rent.
2. The tenant or a person permitted on the property by the tenant has:
 - a) Significantly interfered with or unreasonably disturbed another occupant or the landlord;

- b) Has engaged in illegal activity that has, or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant.

The landlord gave evidence that the tenant had been late in paying rent in November 2017 and in January 2018. He said the tenant had also been late in paying a previous owner/landlord. No documentary evidence was provided regarding the previous landlord's account. The tenant said he had a different relationship and arrangement with the previous owners/landlords and it had been difficult to pay his rent on time for this landlord won't accept some methods of payment such as e-transfer.

The landlord had several witnesses and letters attesting to how the tenant is significantly interfering with their peaceful enjoyment. Four of the witnesses were present and two gave oral testimony as well. They said the tenant D.M. who is the subtenant of P.R. has stacked her garbage against other units and when asked to move it, she threw a rock at the requestor's head. There were complaints to the Town and the Bylaw Officer responded twice regarding her garbage and accumulated junk.

They state the tenant D.M. often screams, uses foul language to her children and other occupants in the park. A witness neighbour said she has called over at least twice to her as she was smoking on her own porch calling her a vulgar word. During the week of November 26-30, 2017, the witnesses state there was also loud hammering from the tenant's home between 2 and 4 a.m. which significantly disturbed their sleep.

Another neighbour complains about the excessively loud music emanating from the tenant's home on numerous occasions. She said she also complained to the town about this and the garbage issue and the Bylaw Officer attended and took photographs. This neighbour also witnessed the tenant leaning her garbage and other items against a neighbour's home and how she abused him verbally when he requested she move it.

Another neighbour complained about the same problems bothering him. He said also that the tenant, D.M., had been running an extension cord from his trailer to hers until another neighbour unplugged it. He finds her behaviour very disruptive to all residents who hear her.

The tenant provided letters from 3 tenants. One said he had done work for the tenant and she was not a problem, the second said that since his original complaint, the music has been kept at a reasonable level and she is not interfering with them. A third said

she is a senior lady in the park and the tenant D.M. is fixing her home as best as she can but the neighbours are harassing her.

The landlord replied to the tenant's letter evidence. He said one letter was from her boyfriend who is likely biased. The neighbours are not harassing her concerning the work on her home; the Bylaw Officer issued a stop work order as no permits were in place. Another witness said that the letters were from residents who did not live as close to the situation.

The owner of the home said he would clear the stop work order by taking permits. He argued that the photographs presented by the owner were old and not taken by the bylaw officer. The manager said the pictures including those of the garbage were taken October 30, 2017 by the Bylaw Officer. The park owner confirmed he got the pictures by email from the Bylaw Officer at that time. The tenant said she did not think the garbage was there at that time.

The owner of the home said there were complaints from one or two neighbours only, we all make mistakes. The tenant said the complaints are from the busy bodies in the park who spend their time watching her. She is tired of their complaints.

Analysis:

Order of Possession

I find that the landlord is entitled to an Order of Possession. The Tenant has not made application pursuant to Section 40 (4) to set aside the Notice to End Tenancy within the required 10 days. In these situations, the *Manufactured Home Park Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice.

In respect to the causes for ending the tenancy, I find section 40 of the Act lists several causes, any one of which if proven, good cause to end a tenancy. I find insufficient evidence that the tenant was repeatedly late in paying the rent as there were only two instances of repeated late payment to this landlord. I find the landlord cannot rely on payment information from a previous owner which is not in evidence.

However, I find the landlord has sufficient cause to end the tenancy as I find the weight of the evidence is that the tenant, D.M.'s, behaviour is significantly interfering with and unreasonably disturbing other occupants of the park. I find the weight of the evidence is that she verbally abuses other residents, stacks garbage against their homes and reacts

with abuse if asked to move it. The landlord offered an effective date of April 30, 2018 for the Order of Possession to allow the tenant some time to move.

Conclusion:

The tenancy ended on February 28, 2018. I find the landlord is entitled to an Order of Possession effective April 30, 2018 and to recover filing fees paid for this application.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Manufactured Home Park Tenancy Act*.

Dated: March 28, 2018

Residential Tenancy Branch