



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Maple Pool Campsite Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This is the Tenants' Application for Dispute Resolution made February 2, 2018, seeking to cancel a One Month Notice to End Tenancy for Cause issued January 30, 2018 (the "Notice").

Both of the parties attended and gave affirmed testimony at the Hearing which took place by teleconference. The hearing process was explained and the parties were given an opportunity to ask questions about the process.

The Tenant RB testified that she gave the Notice of Hearing documents to the Landlord's agent DL on February 17, 2018. RB also testified that she gave LB copies of her documentary evidence "two weeks ago". DL confirmed that he was served in this manner.

The Landlord's agents testified that they served the Tenants with the Landlord's documentary evidence on March 26, 2018, by hand delivering the documents to the Tenant KB. RB acknowledged service in this manner.

Issue(s) to be Decided

Should the Notice be cancelled?

Background and Evidence

The Landlord's agents and its legal counsel gave the following testimony and submissions:

The Landlord's legal counsel CA asked to read emails to the Landlord from RB, which the Landlord received "two or three days ago". I advised the parties that I would accept oral testimony from both parties as well as duly served written testimony.

CA submitted that there were three e-mails, containing the following from the Tenant RB:

1. First e-mail
“Sorry for lying to you guys”;
She had received “abuse and threats” from KB; and
The Tenant RB “offered to kick KB out” and “if you let me stay, I will get the garbage trucked out as well”.
2. Second e-mail
RB is “waiting to hear about KB”.
3. Third e-mail
“KB” has agreed to leave tonight.

CA stated that his clients are not prepared to let RB stay on if KB leaves because, in their previous experience, he would only come back and the troubles would begin again.

The Landlord's agent JL testified that there was a previous Hearing which took place on September 14, 2017, in which the Tenant RB sought to cancel a notice to end the tenancy, and during which the parties came to a settlement agreement. A copy of that Decision was provided in evidence.

The following is an excerpt from the September 14th Decision:

“Specifically, it was agreed that the landlord would withdraw the notice to end tenancy and allow the tenancy to continue on the following terms:

1. The tenant agreed to pay rent on time
2. The tenant agreed that both tenants of this rental unit and their visitors would not engage in any drug related activity inside the manufactured home park
3. The tenant agreed to observe quiet times between 10:00pm and 08:00 am
4. The tenant agreed not to create any noise disturbances which would give the other occupants of the park, reason to complain about.
5. The tenant agreed to ensure that all her visitors would sign in at the front desk.
6. The tenant agreed to have her dog on a leash at all times in public areas.
7. Both parties confirmed that they understood and agreed to the terms of this agreement.

The tenant would be wise to refrain from giving other occupants of the park reason to complain. I find it timely to put the tenant on notice that, if in the future another notice to end tenancy is issued, the record of this agreement would form part of the landlord's case should it again come before an Arbitrator, for consideration.”

[Reproduced as written.]

JL testified that the Tenants have not complied with the terms of the agreement, as set out above. She stated that the Tenants' visitors are not signing in, contrary to the agreement; that their dog is off leash, "pooping" in the public areas, and that the Tenants do not clean up after the dog; and that the Tenants are not observing the quiet times between 10:00 p.m. and 8:00 a.m. as agreed upon.

JL stated that KB drives a pick-up truck with no insurance (an expired plate). She stated that there are children in the park and that she is concerned for their safety.

The Landlord provided photographs and written statements and complaints about the Tenants from other occupants in the park.

The Tenant RB gave the following testimony:

The Tenant stated that the cars and visitors depicted in the Landlord's photographs are not her visitors. She stated that she sometimes signs in for her visitors "after the fact" if they have not signed in. RB stated that the sign-in book is almost impossible to find at night because there is no light.

The Tenant stated that she got "some of the warning letters" but not all of them and that they were "on the ground" or "wet". Later in her testimony, the Tenant stated that she was overwhelmed because there were "so many warnings".

The Tenant testified that there were never any disturbances from visitors that she is aware of, but that she cannot "speak for [KB], when I am at work".

The Tenant stated that her dog was only off leash once and she immediately grabbed him. Later in her testimony, the Tenant stated that her dog "was off leash twice and I did not see him pooping".

The Tenant provided two letters of reference from two of her neighbours.

The Tenant asked that she be given more time to move out, if the Notice is upheld.

The Landlord's agents gave the following response:

JL stated that although the dog is a nuisance, it is a "small issue" compared to the other issues. She stated that she did not say that RB "could stay if KB moved out". She stated that she didn't know how to respond to the Tenant because she was lying.

JL stated that the occupants in 43 moved out because of the Tenants' disturbance, and that the Tenants' visitors have taken to parking in the empty site.

JL testified that the sign-in book is kept in a well-lit area at night.

JL agreed to allow the Tenant to remain until May 31, 2018.

Analysis

In a case where a tenant seeks to cancel a notice to end the tenancy, the onus is on the landlord to provide sufficient evidence that the tenancy should end for the reasons provided on the notice.

In this case, the Landlord alleges that the Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord. In the "Details of Cause(s)" Section of the Notice, the Landlord writes,

"tenants and landlord has an agreement; we found that tenants have breached terms as follow: 3. quiet time between 10 p.m. – 8 p.m. – visitors sometime drove in during midnight. 5. tenants visitor not signed in mostly when come to visit. 6. dog off leash and poo."

[Reproduced as written]

The Tenants were warned about disturbing other occupants in the September 14th Decision. Between September 18, 2017, and January 27, 2018, the Landlord gave the Tenants twelve warning letters, copies of which were provided in evidence.

The Tenant provided two letters from other occupants, but I do not find them particularly helpful to the Tenant. Both letters complain about the Tenant KB, not the Tenant RB; however co-tenants are jointly and severally responsible for damages, disturbances and each other's actions during a tenancy.

The Tenant did not dispute that she had written the three e-mails. Nor did she dispute the contents as read by the Landlord's legal counsel, including her apology for lying to the Landlords. During the Hearing, I found the Tenant's testimony was contradictory.

I find that the Landlord has provided sufficient evidence that the tenancy should end for the reasons provided on the Notice. Therefore, I dismiss the Tenants' application to cancel the Notice.

Further to the provisions of Section 48 of the Act, I hereby provide the Landlord with an Order of Possession. The Landlord agreed to allow the Tenant more time beyond the effective date of the Notice, and therefore I make the Order effective 1:00 p.m., May 31, 2018.

Conclusion

The Tenants' Application is dismissed.

The Landlord is hereby provided with an Order of Possession effective **1:00 p.m., May 31, 2018**, for service upon the Tenants. This Order may be enforced in the Supreme Court of British Columbia.

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: May 08, 2018

Residential Tenancy Branch