



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VALLEY CONCEPTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the Act) for:

- an early end to this tenancy and an order of possession pursuant to section 49;
- authorization to recover its filing fee for this application from the tenant pursuant to section 60.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the notice of hearing package and the landlord's agent(s) (the landlord) submitted documentary evidence on June 16, 2018 in person. The tenant stated that documentary evidence was provided to the Residential Tenancy Branch and the landlords in response to these applications. The landlord argued that no such documentary evidence has been received by the tenant for these hearings. A review of the Residential Tenancy Branch (RTB) File shows no entries for submissions of documentary evidence. The tenant repeated argued that documents were filed in the form of witness statements. Extensive discussions revealed that the tenant had filed an application for dispute of a one month notice scheduled for a different date. A review of those files shows documentary evidence was filed only for those tenant applications. As such, I find that no documentary evidence was filed for these applications filed by the landlord. I find that both parties have been sufficiently served with the notice of hearing package(s) for the noted RTB Files as per section 90 of the Act based upon the tenant's confirmation of service.

Preliminary Issue

Extensive discussions took place in which it was clarified that this hearing would deal with the above noted RTB Files as they pertain to the same issues for the same landlord and tenant. Both parties acknowledged their consent and understanding.

Issue(s) to be Decided

Is the landlord entitled to an early end to the tenancy and an order of possession?
Is the landlord entitled to a monetary order for recovery of the filing fee(s)?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenancy for #25 began on February 1, 2017 on a month-to-month basis as per the signed tenancy agreement dated February 9, 2017. The monthly rent was \$230.00 payable on the 1st day of each month. The rent was later increased to \$262.00 per month.

The tenancy for #10 and #25 are for the same tenant, but the tenant's daughter, K.K. resides in #10 and the named tenant resides in #25.

The landlord seeks an early end of the tenancy for both #10 and #25 and to obtain an order of possession. The landlord claims that the tenant poses an immediate and severe risk to other occupants and the landlord due to an "aggressive attacking dog" who has bitten other residents of the park.

The landlord stated that the tenant's dog had attacked and bit two other park residents in April 2018 and again on May 26, 2018. The landlord claims that in April 2018 the tenant's dog bit A.A. in front of #10. The resident A.A. provided a hand written statement in complaint to the landlord. The landlord also claims that on May 26, 2018 the tenant's dog bit B.V. in front of #10. The landlord claims that a complaint was filed with the police of the attack on May 27, 2018. The resident B.V. provided a typed statement in complaint to the landlord. The tenant disputes the April 2018 allegation and that his dog did not bite A.A. The tenant argues that his dog is not aggressive, but normally does bark. The tenant argued that the incident on May 26, 2018 was incited by B.V., but that no skin was broken in the bite and no police action was taken. The tenant stated at no time has the police attended to investigate the matter with him. The tenant stated that his daughter, K.K. was a witness to the event on May 26, 2018 in confirmation of the circumstances.

The landlord claims that a request for the dog to be removed from the park was made on May 26, 2018. On May 28, 2018 the landlord served a letter to the tenant confirming the request for removal of the dog and at that time, the landlord was notified that the tenant was refusing to remove the dog. On May 29, 2018 the landlord served the tenant with a 1 Month Notice to end Tenancy for Cause.

Both parties confirmed that the landlord has served the tenant with a 1 month notice to end tenancy for cause which the tenant has filed in dispute. A hearing has been scheduled. The landlord stated that the tenant has refused to

Analysis

In accordance with section 49 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord's property;
 - has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the manufactured home park; or
 - has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the manufactured home park.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 49 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

In this case, the landlord has claimed that the tenant has placed the residents of the park in jeopardy of physical harm due to his dog. The landlord has claimed that on two occasions the tenant's dog attacked and bit two of the park's residents. The landlord has provided copies of statements from each resident. The tenant has disputed the claims of the landlord stating that his dog did not bite the park residents. The tenant argued that his dog is not aggressive. I note that the tenant did not dispute the dog incident on May 26, 2018, but stated that the stated victim, B.V. was inciting the dog to attack. The tenant stated that his daughter, K.K. was a witness as she resides at #10. The tenant provided undisputed testimony that no police or spca action has taken place regarding these incidents.

I find that I prefer the evidence of the landlord over that of the tenant on a balance of probabilities but the landlord has not established grounds for an early end to the tenancy. As stated by the landlord, prior to filing an application for dispute on June 13, 2018 for an early end to the tenancy, the landlord served the tenant with the 1 Month Notice on May 29, 2018. In this regard it clearly shows that the landlord proceeded under the 1 Month Notice prior to applying for an early end as per section 49. The landlord has failed to provide any further details of why it would be unreasonable or unfair to wait for a 1 Month Notice to take effect. The landlord relies on the same circumstances for an early end to tenancy as well as for the 1 Month Notice. In this case, I find that the landlord has failed to meet the requirements of section 49 for an urgent end to the tenancy.

Conclusion

The landlord's application(s) are dismissed.

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: July 12, 2018

Residential Tenancy Branch