



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC FF OLC

Introduction:

Both parties attended the hearing and gave sworn testimony. The One Month Notice to End Tenancy for cause is dated February 20, 2019 to be effective March 20, 2019 and the tenant confirmed it was served in his mail slot on February 20, 2019. The landlord confirmed she received the tenant's Application for Dispute Resolution hearing package by registered mail. I find the documents were legally served pursuant to sections 81 and 82 of the Act. The tenant applies pursuant to the *Manufactured Home Park Tenancy Act* (the Act) for orders as follows:

- a) To cancel a Notice to End Tenancy for cause pursuant to section 40;
- b) To prohibit or restrict certain of the landlord's employees from entering the subject site pursuant to section 63; and
- c) To recover the filing fee for this application.

Issues to be Decided:

Has the landlord proved on the balance of probabilities that there is good cause to end the tenancy? Or is the tenant entitled to any relief? Is the tenant entitled to an Order prohibiting certain of the landlord's employees from entering his site?

Background and Evidence:

Both parties attended and were given opportunity to be heard, to provide evidence and make submissions. They agreed that the tenant had lived in the park since about May 20, 2014 or 2015; his rent is \$413 per month. The Notice to End Tenancy is a one month notice given for cause pursuant to section 40 of the Act. The causes stated are that the tenant has engaged in illegal activity that has, or is likely to:

- (a) Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;
- (b) Jeopardize a lawful right or interest of another occupant or the landlord.

Both parties submitted a significant amount of evidence including written summaries, a video and photographs. The landlord said the Notice was served because the tenant is a loose cannon that goes off on a tangent and keeps going. In the latest incident, while the snow was being plowed in the park and she was sleeping on her couch, he banged loudly on the side of her home and scared her. He told her the snow plow operator () was piling large amounts of snow in front of his unit. She told him that she would call the operator and he said if she did not, he would call the Police. He did and they informed him that this was not something in which they got involved. She said he went after the driver about it accusing him of dumping a lot of snow in front of his home and not in front of others. She said the park must keep the roads clear for emergency vehicles and they plow the road and distribute the snow in front of the homes at the side of the road. She said the tenant also made a threatening phone call to the employer of the snow plow operator.

The park has employees to do maintenance, one of whom is a D.S. with a wife, C. The tenant has also engaged in threatening, intimidating behaviour with them. D.S. told the manager that when he went to the tenant's unit to ask about the snow problem, the tenant threatened him with a baseball bat. His wife, C., was concerned about the tenant's behaviour and wanted to safeguard the manager who is an older lady so she told the tenant that if he caused trouble, she would come after him and defend the manager. She said he threatened a man in the park two years ago and he behaves in a threatening, intimidating way to others in the park but they are afraid of him so did not write letters about it for fear of reprisal. She pointed to the police reports to support her information. When I asked for a description of the threatening, intimidating behaviour, she said that C. was salting the road after the snowfall and the tenant passed by and stared and stared at her. She said he does the same with other residents and was trying to destroy the reputation of D.S. by alleging he did not declare his income for taxes and she knows D.S. does do his taxes for she has seen him.

The tenant denies he threatened to kill a man two years ago. He denies he threatens people in the park. He said he did call the revenue agency because D.S. has an illegal business. He called the police because D.S. threatened him but his account of being met by the tenant with a baseball bat is untrue; he says he has not owned a bat for years. While the plowing was happening, he went out to talk to the plow operator (not D.S.) and he just rolled down his window but continued to dump much larger amounts of snow in front of his home than in front of any neighbours. He agrees he told D.S. and his wife to get off his property and may have used some swear words for D.S. had continued to allow the snow plow to dump large amounts of snow on his property and it was possibly damaging some of his more fragile shrubs. Two days later, there was

another snowfall and it appeared the plow operator was again singling him out for more snow on his lot but he just went to bed for it seemed useless to do anything. The tenant's neighbour wrote a letter to say he observed D.S. and the bobcat operator "piling load after load of snow" on the tenant's garden. When he approached D.S., D.S. spun around and stormed at him waving the snow shovel and yelling repeatedly, "You're one of them". Then he also yelled at him about his wife's dog.

The neighbour's wife also wrote a letter about walking her dog about two years ago and an incident with D.S. after her dog peed on one of D.S.'s pots (which she later cleaned). She said D.S. was screaming at her.

The landlord said she had tried unsuccessfully to end the tenant's tenancy a couple of years ago. He had many of his friends write letters at that time.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis:

The onus of proof is on the landlord to prove on a balance of probabilities that there is good cause to end the tenancy. The causes cited on the Notice are that the tenant has engaged in illegal activity that has, or is likely to:

- (a) Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;
- (b) Jeopardize a lawful right or interest of another occupant or the landlord.

I have carefully examined all the documentary evidence although not all is referenced in my decision. I find insufficient evidence that the tenant has engaged in illegal activity that is adversely affecting the quiet enjoyment, security, safety or physical well-being of other occupants or the landlord. Although the landlord denied that much more snow was being dumped in front of the tenant's lot than on others, I find his evidence credible that this happened. His credibility is well supported by the video evidence and his neighbour's letter testifying to that. I find his reaction to that was not threatening or intimidating. He banged on the side of the manager's home to protest and asked her to have this stop or he would call the police. Although she says she felt scared, I find she is the manager of the park and complaints are to be expected; I find he did not threaten or intimidate her. In respect to her maintenance personnel, D.S and C., I find they appear to be equally at fault in their adversarial actions towards the tenant. I find the police report does not support that the tenant engaged in illegal or threatening behaviour as the police found insufficient evidence of the allegations. Furthermore, I

find “staring” at people (even if the tenant does stare) would not normally be defined as intimidating or threatening. While he agreed he did contact the revenue agency about a neighbour, I find this is not illegal activity and he did not do this persistently so I find it does not amount to significant interference with the neighbour.

Likewise, I find insufficient evidence that the tenant has jeopardized a lawful right of the landlord or another occupant. While he protested the excess dumping of snow in front of his unit, I find insufficient evidence that he prevented the operator from doing his job or engaged in illegal activity.

The tenant has requested that D.S. and C. be prohibited from entering his rented lot. While the landlord may enter the lot in an emergency, such as repair of broken pipes as described in section 27, I find section 23 of the Act provides that the landlord’s right to enter a manufactured home site is restricted unless there is permission of the tenant or necessary notice. The landlord appeared to believe that restriction only applied to entry of the unit but I find it applies to the whole site which is rented by the tenant. Therefore, I caution the landlord to consult and obey these sections of the Act. To maintain good peace and order, it appears that it would be advisable to limit D.S. and C. from entering the tenant’s mobile home site and asking them to interact with him. I also caution the tenant about contacting authorities about his neighbours’ activities as this may be construed as interference if he does it continuously.

Conclusion:

The application of the tenant is successful. The Notice to End Tenancy is cancelled and the tenancy is continued. I find the tenant entitled to recover his filing fee.

I HEREBY ORDER that the tenant may recover his filing fee by deducting \$100 from his next rental payment to the landlord.

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: April 18, 2019

Residential Tenancy Branch