



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TIMBERLAND TRAILER PARK
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to the *Manufactured Home Park Tenancy Act* (the "Act") for an early end to tenancy pursuant to section 56.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant confirmed he was served with the landlord's application for dispute resolution and evidence. In accordance with section 89 of the Act and Residential Tenancy Branch Rules of Procedure, Rule 3.2, I find the tenant has been served with the application for an order ending tenancy early.

While I have turned my mind to all the documentary evidence, including miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of each of the parties' respective positions have been recorded and will be addressed in this decision.

Preliminary Issue

The tenant submits that this hearing is 'judicially incorrect' as he has been accused of things that he claims are false allegations and misinterpretations of his actions. This should be a matter for the police, crown counsel and the courts to decide, not an arbitrator. The tenant claims the landlord is trying to prove a criminal case outside a court of law.

Section 62 of the Act defines the Director's authority respecting dispute resolution proceedings.

- (1) The director has authority to determine:
 - (a) disputes in relation to which the director has accepted an application for dispute resolution, and
 - (b) any matters related to that dispute that arise under this Act or a tenancy agreement.
- (2) The director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this Act.

Rule 6.6 of the Residential Tenancy Branch Rules of procedure indicate the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed; less than the criminal standard which is beyond a reasonable doubt.

The standard for determining an early end to tenancy under the *Manufactured Home Park Tenancy Act* is whether there are sufficient grounds to end a tenancy, not whether the tenant committed a criminal code offence. As the outcome of this hearing is to determine whether a tenancy should continue or end, this hearing was conducted pursuant to section 62.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

Background and Evidence

The landlord relies on her written statement which she swears is the truth. On April 27, 2019, the tenant's neighbour was hosting a birthday party for her daughter. The tenant swore and yelled at the neighbour, demanding they keep the music down. Later that evening, at approximately 7:00 p.m., the party host heard children's screaming coming from the tenant's site. She witnessed the tenant holding one child by the arm and another with her pants around her ankles. The landlord's witness, the neighbour SZ testified the child being held by the arm was being shaken violently and that the tenant would not let her go. That child bit the tenant multiple times in an effort to escape his grip.

The tenant was taken away from the manufactured home park by the police that night and while he was in jail, his tires were slashed. Neither the landlord or the tenant know who did this, however the same neighbour saw the tenant slashing her truck tires at approximately 11:30 p.m. on the night of April 28th. The witness's partner caught the tenant while vandalizing the truck and told the tenant to leave. According to the

landlord's written statement, the tenant slashed truck tires belonging to another tenant in the manufactured home park at 4:34 a.m. the morning of April 29th. The police were called in both incidents of tire slashing.

On April 30th, the same neighbour, SZ received notes in her mailbox. The notes were not provided as evidence since they were in the possession of the police, however SZ had photographed them and read them into the record. The first note read:

'You are completely totally wrong. Didn't appreciate the treatment and your time is near.'

The second note read:

'Let go, let God'

The neighbour testified that whenever she walks by the tenant's trailer, he calls her vulgar names and that she is afraid to have her daughter with her to protect her from hearing vulgar words and for her personal safety.

Statements from other occupants of the manufactured home park were provided as evidence. The parents of each of the girls state their families are in fear of the tenant. The father of one of the children, WJG was called as a witness. He testified his child told him she had to bite the tenant so he would let go of her on April 27th. His child is now afraid of this tenant.

The tenant acknowledges the notes left in the neighbour SZ's mailbox were written by him but claims they were misunderstood messages. They were not meant to be threats but were a warning that there may be retribution for the neighbour's actions according to his faith.

The tenant testified the incidents with the children on April 27th involving the two girls was a misunderstanding and misinterpretation of events. When he came back from jail, his tires were slashed causing an estimated \$2,000.00 in damage. In anger and frustration, he damaged the valve stems on SZ's vehicle tires by cutting them. He estimates the damage is no more than a \$22.00 repair, a simple matter of a valve replacement. While he initially thought it was SZ's family who originally slashed his tires, he is now unsure. He may have chosen the wrong tires to vandalize. The tenant says he is the victim of a witch hunt.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an

Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

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

it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect.

The tenant has testified he knowingly cut the tire stems belonging to another occupant of the manufactured home park, however he testified he felt justified in doing so since his truck sustained greater damage. In knowingly vandalizing his neighbor's property, I find the landlord has provided sufficient evidence to show that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property and seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.

The landlord has shown through the written statements provided, the notes left by the tenant in his neighbour's mailbox, and the testimony of the witnesses, that the families in the manufactured home park are subjected to a continuing pattern of threatening and abhorrent behaviour from the tenant. I accept the landlord's submission that the tenant's behaviour is significantly interfering with or unreasonably disturbing other occupants of the residential property and must be discontinued immediately. I find that under the circumstances it would be unreasonable to the other occupants of the rental building to wait for a notice to end the tenancy to take effect.

Accordingly, I issue an Order of Possession to the landlord pursuant to section 56 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of 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: June 05, 2019

Residential Tenancy Branch