



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC MNDCT OLC PSF RR FFT

Introduction

This hearing was convened as a result of the tenants' Application for Dispute Resolution ("application") seeking remedy under the *Manufactured Home Park Tenancy Act* ("Act"). The tenants applied to cancel a 1 Month Notice to End Tenancy for Cause dated April 23, 2019 ("1 Month Notice"), for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, for an order directing the landlord to comply with the *Act*, regulation or tenancy agreement, for an order for the landlord to provide services or facilities agreed upon but not provided, for a rent reduction, and for the recovery of the cost of the filing fee.

The tenants, an agent for the tenants ("agent") and landlord TC ("landlord") attended the teleconference hearing. The parties gave affirmed testimony and were provided the opportunity to present any documentary evidence was the submitted in accordance with the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"). The hearing process was explained to the parties and an opportunity to ask questions was provided to the parties.

The parties confirmed service of all relevant documentary evidence and confirmed that they had the opportunity to review that evidence prior to the hearing.

Preliminary and Procedural Matters

Rule 2.3 of the RTB Rules authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenants indicated several matters of dispute on the application, the most urgent of which is the application to cancel the 1 Month Notice. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenants' request to cancel the 1 Month Notice and the tenants' application to recover the cost of the filing

fee at this proceeding. The balance of the tenants' application is dismissed, with leave to re-apply.

The parties confirmed their email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to both parties.

Issues to be Decided

- Should the 1 Month Notice be cancelled?
- Are the tenants entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

The parties agreed that a month to month tenancy began in May 2015. Currently the monthly site rent is \$200.00 per month and is due on the first day of each month.

The tenants submitted a copy of the 1 Month Notice in evidence. The 1 Month Notice is dated April 23, 2019, which the tenants confirmed was received in person the next day on April 24, 2019. The effective vacancy date is listed as May 31, 2019 and is signed and dated by the landlords. The tenants disputed the 1 Month Notice on May 1, 2019. On the 1 Month Notice, the landlord has alleged 7 causes which are:

1. Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
2. Tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord.
3. Tenant or a person permitted on the property by the tenant has put the landlord's property at significant risk.
4. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property.
5. Tenant or a person permitted on the property by the tenant 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.
6. Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to jeopardize a lawful right or interest of another occupant or the landlord.
7. Tenant or a person permitted on the property by the tenant has caused extraordinary damage to the unit/site or property/park.

The landlord testified that it is their opinion that the tenants hired an unlicensed electrical contractor to perform some electrical work on their manufactured home/front porch resulting in a fire that occurred on April 2, 2019. There was no dispute that a fire occurred and that the entire manufactured home was burned; however, the tenants deny that the person they hired was unlicensed and stated that the fire department report ("report") determined that the cause of the fire was "unknown at this point".

The landlord referred to a portion of the report where it reads:

We do know that the homeowner was awakened by her dogs and noticed smoke in the trailer. She said it had a burnt wire smell to it, and started unplugging appliances (toaster, coffee maker etc).

The landlord stated that there was damage to a 200 amp switch which due to the fire cause the fuse to blow and cost \$6,391.33 to repair. The landlord also stated that the pole holding the electrical wires was damaged, yet the report also reads:

...was on scene disconnecting the faulty main switch feeding the trailer park. Upon further examination, it was found that the pole holding this switch was rotten at the base, to the point that it presented extreme safety hazard. It was decided to remove all of the wires (power and telecom) from this pole, and the pole was knocked down easily with a push from the electrician.

The tenants vehemently denied that the fire was caused by them and referred to report which indicates the cause of the fire was unknown. In response, the landlord was asked if all 7 causes were related to the fire, and the landlord confirmed that indeed all 7 causes were related to the fire.

Analysis

Based on the above, the testimony and documentary evidence, and on a balance of probabilities, I find as follows.

The 1 Month Notice has an effective vacancy date of May 31, 2019. The tenants disputed the 1 Month Notice on May 1, 2019, which is within the ten day timeline provided for under section 40 of the *Act* to dispute a 1 Month Notice.

Once a 1 Month Notice is disputed, the onus of proof is on the landlord to prove that the 1 Month Notice is valid. Firstly, I find an allegation without supporting evidence to support that allegation, is not sufficient evidence to prove a 1 Month Notice. I find the report is inconclusive and does not support the landlord's testimony as the cause of the fire was unknown. Furthermore, although the landlord claims that the pole and a switch were damaged, I find that the report supports that the pole was rotten and an extreme safety hazard and could be easily pushed down by the electrician, which is not the fault of the tenants.

Based on the above, I find the landlord has provided insufficient evidence to prove the 7 causes alleged in the 1 Month Notice. Therefore, I **cancel** the 1 Month Notice dated April 23, 2019 as the 1 Month Notice is **not valid**.

I ORDER the tenancy to continue until ended in accordance with the *Act*.

As the tenants' application was successful, I grant the tenants \$100.00 for the cost of the filing fee pursuant to section 65 of the *Act*. I authorize the tenants a one-time rent reduction of **\$100.00** from July 2019 rent, in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 60 and 65 of the *Act*.

Conclusion

The 1 Month Notice issued by the landlord is cancelled and of no force or effect.

The tenancy shall continue until ended in accordance with the *Act*.

The tenants have been granted a one-time rent reduction of \$100.00 from July 2019 rent, in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 60 and 65 of the *Act*.

This decision will be emailed to both parties.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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 11, 2019

Residential Tenancy Branch