



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Manufactured Home Park Tenancy Act* (the “Act”) to cancel a One Month Notice to End Tenancy for Cause (the “One Month Notice”).

Both Tenants were present for the teleconference hearing, along with an advocate (the “Tenants”). The Tenants also had a law student present who did not participate in the hearing. The Landlord was present for the duration of the teleconference hearing.

The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenants’ evidence. The Landlord stated that he tried to submit evidence but was unaware of the deadlines and therefore not able to submit the evidence in time. He confirmed that he did not submit any evidence and did not serve a copy of his evidence to the Tenants.

The Landlord requested an adjournment for additional time to submit evidence. However, this request was denied as I find it may unfairly prejudice the Tenants who submitted evidence and were prepared to continue with the hearing at the scheduled time. Instead, I find that the Landlord served the Tenants with a One Month Notice on June 1, 2019 and should have been aware of the Tenants’ right to dispute the notice and therefore prepared with evidence to support the reasons for ending the tenancy. As such, the hearing continued as scheduled and a decision will be outlined below regarding the dispute over the One Month Notice.

All parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled?

If the One Month Notice to End Tenancy for Cause is upheld, is the Landlord entitled to an Order of Possession?

Background and Evidence

The Tenants stated that their tenancy began on October 1, 2006. Their current monthly rent is \$350.00. The Landlord stated that he became the land owner and therefore landlord on March 9, 2009 with the tenancy already in place. The Landlord agreed that the Tenants are to pay \$350.00 per month in rent.

The Landlord testified that he served the Tenants in person with the One Month Notice on June 1, 2019. The One Month Notice was submitted into evidence and states the following as the reasons for ending the tenancy:

- Tenant is repeatedly late paying rent
- Tenant or a person permitted on the property by the tenant has:
 - Significantly interfered with or unreasonably disturbed another occupant or the landlord
 - Seriously jeopardized the health or safety or lawful right of another occupant or the landlord
 - Put the landlord's property at significant risk
- 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
- Tenant has not done required repairs of damage to the unit/site
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

- Tenant knowingly gave false information to prospective tenant or purchaser of the rental unit/site or property/park
- Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order

Further details were provided on the One Month Notice as follows:

Notice Nov. 1, 2015 regarding Inspection. Access denied to this date. Nov 26, 2015 notice given regarding maintenance, insurance, whett compliance, Safety BC compliance this was 3rd notice. June 1 2018, yet another notice and Park rules to read and sign, notice of more than 3 vehicles to be removed and a cease order on all unauthorized construction, as well as a cease construction order on unauthorized planter encroaching on public driveway. Damage to septic system by constantly running water (ongoing).

[Reproduced as written]

The Landlord stated that the repeated late payment of rent was from five years ago and therefore he would like to remove that as a reason on the One Month Notice.

He testified as to the reasons why the Tenants were served with the One Month Notice which included a situation in which one of the Tenants pushed another occupant into a ditch. He also noted that the Tenants have a dog for which they do not have permission to have and that they are completing construction on their property without authorization.

The Landlord also stated that the Tenants' wood stove is a fire hazard and that they have not been completing required repairs on their manufactured home. The Landlord also testified as to a sewage issue resulting from the Tenants' manufactured home which has caused issues on the property.

The Tenants confirmed receipt of the One Month Notice on June 1, 2019. They denied the claims of the Landlord and stated that they are unsure as to the issues the Landlord is addressing as they have not had any prior notification and are unaware of any current issues with the tenancy.

The Landlord also stated that the Tenants have too many vehicles on the property. The Tenants stated that they pay \$50.00 per month included in their rent which is to park 3 additional vehicles in an area across from their home. The Landlord stated that this was

for 3 vehicles in total, which includes the vehicles parked in front of the manufactured home. The Tenants denied this and submitted photos of the site and of their manufactured home.

The Tenants stated that they have no idea what the Landlord is referencing regarding claims of disturbance to others, significant risk to the Landlord's property, failure to complete repairs, breach of a material term or any of the other claims as noted on the One Month Notice.

The Landlord also testified as to the Tenants denying him access to the property to inspect the stove and electrical in the home. He stated that he provided notice to enter in November 2015 and has been denied access since then. He also stated his concerns regarding the Tenants not having insurance and appropriate safety approval stickers.

The Tenants stated that they have the appropriate safety stickers/approval and note that the Landlord is able to provide notice to enter the property but not their manufactured home. The Tenants also stated that they are currently unable to obtain insurance due to being close to ongoing wildfires. They submitted a letter from the insurance company dated July 3, 2019 which confirms they are not able to provide insurance at this time.

Analysis

As stated in Section 40(4) of the *Act*, a tenant has 10 days in which to dispute a One Month Notice. The Tenants confirmed receipt of the One Month Notice on June 1, 2019 and applied to dispute the notice on June 4, 2019. Therefore, I find that the Tenants applied within the allowable timeframe. As such, the matter before me is whether the One Month Notice is valid. As stated by rule 6.6 of the *Residential Tenancy Branch Rules of Procedure*, when a tenant applies to dispute a notice to end tenancy the onus is on the landlord to prove, on a balance of probabilities, that the reasons for the notice are valid.

The Landlord provided testimony as to many issues with the tenancy that led to service of the One Month Notice. However, the Tenants were not in agreement and were not clear on the Landlord's references to some of the issues mentioned.

When two parties to a dispute resolution proceeding provide differing accounts of what has occurred, it is up to the party with the burden of proof to submit sufficient evidence

over and above their testimony to establish their claim. In the absence of any evidence from the Landlord, I find that he did not meet the burden of proof for me to be satisfied that the reasons for the One Month Notice are valid. I also note that I found the Landlord's testimony regarding the reasons for the One Month Notice to be quite vague and non-specific. I found that this made it difficult to determine whether there are current and significant issues that may have led to service of the notice.

As stated, the Landlord served the Tenants with the One Month Notice on June 1, 2019 which I find provided him plenty of time to have sufficient evidence to support his claims. It is the responsibility of the Landlord to ensure that there are valid reasons for ending a tenancy prior to serving a notice to end tenancy.

Accordingly, due to a lack of evidence from the Landlord who has the burden of proof in this matter, I find that the Tenants were successful with their application to cancel the One Month Notice.

The One Month Notice dated June 1, 2019 is cancelled and of no force or effect. This tenancy continues until ended in accordance with the *Act*.

Conclusion

The One Month Notice dated June 1, 2019 is cancelled and of no force or effect. This tenancy continues until ended in accordance with the *Act*.

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 24, 2019

Residential Tenancy Branch