



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC, FFL, OPC

Introduction:

The Application for Dispute Resolution filed by the Tenant seeks an order to cancel a one month Notice to End Tenancy dated September 7, 2019.

The Application for Dispute Resolution filed by the landlord seeks the following:

- a. An Order of Possession
- b. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the one month Notice to End Tenancy was personally served on the Tenants on September 9, 2019. I find that the Application for Dispute Resolution/Notice of Hearing filed by each party was sufficiently served on the other by mailing, by registered mail to where the other party resides or carries on business.

Issues to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order to cancel the one month Notice to End Tenancy dated September 7, 2019.
- b. Whether the landlord is entitled to an Order of Possession?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Preliminary Matter:

The landlord served a one month Notice to End Tenancy that alleged the tenants breached a material term of the tenancy agreement that was not corrected within a reasonable period of time after written notice to do so. The Detail of Cause was left blank.

However, the Notice to End Tenancy in the materials submitted by the landlord included a second ground which was that the tenant or person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord. The Details of Cause included the notation "Boarders without consent of park. Harassment of tenants of park. Attached letters 1, 2, 3,4, 5, 6, 7, 8. The tenant testified that she saw this form of notice with the landlord's evidence.

One of the fundamental principles of our legal system is that a respondent must be given sufficient notice to the claims being made against them to offer them a fair change to defend themselves. I determined the landlord failed to properly serve the revised notice with included the additional grounds and the notation in the Details of Cause. As a result I determined the Notice to be considered in this hearing is the Notice alleging the tenant breached a material term of the tenancy agreement that was not corrected within a reasonable period of time after written notice to do so. I determined the revised notice produced by the landlord is null and void.

Background and Evidence:

The tenancy began approximately 3 years ago. The present pad rent is \$603.81 per month payable in advance on the first day of each month. The tenants purchased the manufactured home from the owner of the park and are making payments to the owner on that purchase.

Grounds for Termination:

The Notice to End Tenancy relies on the following grounds:

- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so

Landlord's Evidence:

Briefly, the landlord gave the following evidence:

- The tenants have caused a lot of trouble in the park and have continually ignored the landlord's request to rectify the problems.
- The landlord received many complaints from other residents of the park.
- The tenants have been having boarders which are not permitted under the tenancy agreement.
- The landlord referred to letters from other tenants raising complaints including the following:

- The tenants have borrowed money from other residents of the park and failed to pay it back.
- The tenants have gone into other units without permission. In one situation they stole alcohol.
- The tenants have been excessively noisy in the morning period thereby disturbing others. In particular they used the weed eater at 8:15 a.m.
- They are rude and disrespectful for other tenants. One letter of complaint outlines how they interrupted a conversation they were having with another park resident and one of the tenants took over the whole conversation.
- Another letter of complaint states one of the tenants swore at them when driving on one occasion.

The tenant gave the following evidence:

- There is no tenancy agreement between the landlord and the tenants.
- The landlord failed to advise them what term of the tenancy agreement they have allegedly broken.
- They keep to themselves and deny causing problems.
- On one occasion they went into another resident's unit as the dog owned by the other resident had broken loose while the other residents were at work and they were returning the dog.
- They deny they owe anyone any money.
- No boarder is presently living with them.
- They deny harassing other residents.
- On two occasions the RCMP were called to assist because the tenant was having a mental health problem.

Tenants' Application to Cancel the one month Notice to End Tenancy:

After carefully considering all of the evidence I determined the landlord failed to establish sufficient cause to end the tenancy based on the grounds set out in the one month Notice to End Tenancy for the following reasons:

- The only ground set out in the Notice to End Tenancy served by the landlord is that the Tenants breached a material term of the tenancy agreement. The landlord does not have a written agreement with the tenant. The landlord was not able to identify which term of the tenancy agreement or Rules was allegedly broken.
- The landlord has a number of complaints about the Tenants. However, the people who made the complaints failed to appear at the hearing and failed to testify. While written statements are admissible limited weight can be given to them where the written statement is disputed by the other party who gives credible oral evidence.
- The law recognizing that it is not unusual for parties living in close proximity to each other might have disputes. However, before a dispute can be grounds for ending the

tenancy it must be sufficient to reach a requirement of “significantly interfering with” or “unreasonable disturbing” another resident. I determined the complaints identified in the letters produced by the landlord are not sufficient to reach this standard.

Determination and Orders:

After carefully considering all of the evidence I determined that the landlord failed to establish sufficient cause to end the tenancy. I granted the Tenants’ application. I ordered that the Notice to End Tenancy dated September 7, 2019 be cancelled. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

Landlord’s Application for an Order for Possession and reimbursement of the cost of the filing.

For the reasons set out above I ordered that the one month Notice to End Tenancy be cancelled. As a result I dismissed the landlord’s application without leave to re-apply.

This decision is final and binding on the parties.

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: December 03, 2019

Residential Tenancy Branch