



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on November 25, 2019 and amended on November 28, 2019 (the "Application"). The Tenant applied for an order cancelling a One Month Notice to End Tenancy for Cause (the "One Month Notice"), pursuant to the *Manufactured Home Park Tenancy Act* (the "*Act*").

The Tenant attended the hearing and called two witnesses, S.H. and T.H. The Tenant was also accompanied by S.W., an advocate, who did not participate in the hearing. The Landlord attended the hearing and was accompanied by S.F., a witness. The Tenant, S.H., T.H., the Landlord, and S.F. provided affirmed testimony.

The Tenant testified the Notice of Dispute Resolution Hearing package and documentary evidence were on the Landlord in person. The Landlord acknowledged receipt. In addition, the Landlord testified a documentary evidence package was served on the Tenant by leaving a copy attached to the Tenant's door. The Tenant acknowledged receipt. No issues were raised with respect to service or receipt of these documents during the hearing. The parties were in attendance and were prepared to proceed. Therefore, pursuant to section 64 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Is the Tenant entitled to an order cancelling the One Month Notice?

Background and Evidence

The parties agreed the tenancy began on May 1, 2019 and continues on a month-to-month basis. Pad rent is due in the amount of \$400.00 per month.

The Landlord wishes to end the tenancy. Accordingly, the Landlord issued the One Month Notice on the basis that the 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 of the park. Specifically, the Landlord testified that other residents have advised that the Tenant has been involved in the use and trafficking of methamphetamine, as reported in a local newspaper. The Landlord testified she obtained a copy of the newspaper article (which does not name the Tenant) and submitted a copy into evidence. The Landlord testified that she confronted the Tenant with this information and that the Tenant admitted to the allegations. A statement by S.F. was submitted into evidence.

In addition, the Landlord testified there has been too much traffic related to the Tenant's unit which has disturbed other residents in the park. The Landlord advised that the other residents do not wish to come forward, and that the police would not share information with her. However, the Landlord is concerned about the other residents.

The Tenant acknowledged use of methamphetamine but denied trafficking. She also testified that she has never brought methamphetamine to the park. The Tenant also testified that friends and family come to visit.

The Tenant called two witnesses. S.H. testified that she has known the Tenant for about one year. She lives on the pad adjacent to the Tenant and advised there have been no issues with the Tenant as a neighbour. T.H. is a family friend who testified that he was present for the conversation described by the Landlord and denies the Tenant admitted to trafficking. He described the Tenant as a "good person".

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 40 of the *Act* permits a landlord to take steps to end a tenancy for the reasons described therein. In this case, the One Month Notice was issued on the basis identified above. The Landlord bears the burden of establishing the tenancy should end. In this case, I find the Landlord has provided insufficient evidence upon which to end the tenancy. The residents who made the complaint about the Tenant did not attend the hearing to give oral testimony or provide written statements. They do not want to be involved. Similarly, evidence from the police was apparently not provided to the Landlord. Accordingly, I find there is insufficient evidence that the Tenant's actions adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant in the park.

In light of the above, I find that the One Month Notice is cancelled. The tenancy will continue until otherwise ended in accordance with the *Act*.

Conclusion

The One Month Notice is cancelled. The tenancy will continue until otherwise 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: January 17, 2020

Residential Tenancy Branch