



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC AS MNDC FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on December 31, 2019. The Tenant applied for multiple remedies, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act").

Both parties attended the hearing and provided testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

This hearing was initially scheduled for December 30, 2019. However, due to a scheduling error, the hearing was rescheduled and held on December 31, 2019. The Landlord confirmed she received the Tenant's Notice of Hearing and evidence. The Tenant confirmed he received the Landlord's evidence package. Neither party took issue with the service of these documents.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not the tenancy is ending. As a result, I exercised my discretion to dismiss unrelated matters, with leave to reapply, on the Tenant's application with the exception of the following claim:

- to cancel the 1 Month Notice to End Tenancy for Cause (the Notice).

Issue to be Decided

- Is the Tenant entitled to have the Landlord's Notice cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

Both parties provided a significant amount of documentary evidence and oral testimony. Much of the testimony provided by both parties was contentious, conflicting and difficult to resolve, without further evidence. In this review, I will not summarize and address all evidence and testimony. However, I will focus on the facts and evidence which underpin my findings.

The Tenant has lived in this manufactured home park for many years. The Tenant and his wife were the Tenants under the tenancy agreement (provided into evidence). However, one of the Tenants passed away and the only remaining Tenant on the agreement is the Tenant listed on this application, P.B.

The Landlord stated that since last spring, her relationship with the Tenant has been strained for a variety of reasons. The Landlord stated there have been issues with the Tenant not carrying adequate insurance, and renting to unauthorized people. The Landlord stated she issued the Notice at the end of October 2019, for the following reasons:

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.*

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

Tenant has assigned or sublet the rental unit/site without Landlord's written consent.

The Tenant acknowledged receiving the Notice on October 29, 2019. Under the Details of Cause section of the Notice, the Landlord explained that the Tenant has breached his contract for subletting without permission. The Landlord stated that the foot traffic that has resulted from the subletting has impacted others and there has been issues with drugs and paraphernalia. On the Notice, the Landlord stated that there is also a dog living in the unit without permission. However, the Landlord did not speak to this final issue in the hearing.

During the hearing, the Landlord mainly spoke to the issue of “subletting” and the impact it has had on others in the park. The Landlord explained that she gave this Notice to the Tenant because he has sublet the unit off and on for the past several months, and it has recently become a problem for others in the park. The Landlord stated that the Tenant has a 2-bedroom trailer, which he has parked on the pad which he rents. The Landlord stated that often times, there are more than 2 people living there, and the Tenant is not even living there anymore. The Landlord stated that the Tenant moved out a few months ago, and has been renting to some people who have caused trouble. The Landlord feels this is a sublease, because the Tenant is not living there.

The Tenant denies that he has officially moved out of the trailer, and stated that he still has most of his belongings in the trailer. The Tenant clarified that he moved out in the fall of 2019 sometimes temporarily so that he could stay with his girlfriend and help her while she recovered from an injury. The Tenant stated that he is still in and out of the unit, as his things are there, but he has rented some of the rooms out, to different people. The Tenant asserts that he is still an active tenant, and has not moved out or sublet.

The Landlord asserted that the issues escalated when the Tenant rented a room out to an individual named L.L. The Landlord stated that after L.L. moved in, her son also started to stay in the trailer with her. The Landlord stated that L.L.'s son is a known drug

dealer and user, and he has brought many dangerous guests into the park. The Landlord stated that a neighbour to this unit found a crack pipe in the driveway of this particular home site, on October 28, 2019. The Landlord stated that L.L.'s son and his guests, have brought crime, drugs (dealing and use), and disruptive foot traffic to the home park. The Landlord stated that this disrupted the other residents and many of them have filed complaints. The Landlord stated they are seeking to restore the peace in the park, and eliminate drug use and crime and the foot traffic at all hours of the day.

The Landlord stated that she has a park manager, who has been onsite for several months. The Landlord provided a copy of a statement from this individual named, J.H. In his statement, he indicated that he has had several complaints from neighbours to this unit, about traffic coming and going at all hours of the day and night, as well as drug deals happening right in the park. He also stated that one of the neighbours found a crack pipe in the Tenant's driveway (a picture was provided into evidence). J.H. also stated that he witnessed L.L.'s son conducting suspicious transactions at night and returning to the trailer when he was finished. The Landlord stated that L.L.'s son is a known drug dealer and user, and his behaviour is impacting other residents (safety, well being, and quiet enjoyment).

The Tenant acknowledged that L.L.'s son was staying at the rental unit on and off for a period of time in the fall. The Tenant acknowledged that L.L.'s son was a problem, which is why he had another one of his friends, N.E., move in to help clean up the situation, to try to keep L.L.'s son from returning. N.E. attended the hearing to speak for the Tenant and stated that he did move into the unit in October sometime so that he could try and keep L.L.'s son from returning, as he "was a problem". N.E. stated that L.L.'s son has "addiction issues" and was involved in the drug scene. N.E. stated that L.L.'s son was bringing addicts over to the rental unit.

The Tenant further stated that L.L.'s son had friends coming and going all the time, and many of them looked like drug users. The Tenant stated that he has since asked L.L. to move out, and neither she nor her son are a problem anymore as they don't live there. The Tenant stated he would like to be able to keep renting the pad from the Landlord and he stated he won't rent it out to problematic people anymore, should he be allowed to stay. N.E. confirmed that he is still living in the rental unit.

Analysis

In this decision, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

In the matter before me, the Landlord has the onus to prove that the reasons in the Notice are valid. I note in civil law matters such as these, the standard of proof is based on a balance of probabilities, not the criminal court standard of proof beyond a reasonable doubt.

The Landlord has issued the Notice under multiple grounds. However, I turn to the following ground:

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.*

Although the Tenant stated he has not subleased the unit, because he is only temporarily staying with his girlfriend at her house while she recovers from an injury, I find it is not an issue I must resolve because my findings below are based upon the behaviour and activity of the individuals residing/and or visiting the rental unit. The issue as to whether or not the Tenant has subleased the unit without the Landlord's consent is immaterial (as a ground for ending the tenancy), as the tenancy is ending under the above noted ground, for the reasons laid out below.

The Tenant acknowledges that L.L. rented a room from him and moved into the unit a few months ago, sometime in August. The Tenant does not dispute that L.L.'s son was coming and going, and sometimes would stay over. The Tenant specifically explained that L.L.'s son was the problem, and his friend and witness, N.E. (who attended the hearing), confirmed this. The Tenant's witness, N.E., confirmed that L.L.'s son was bringing over drug addicts on a regular basis. This is consistent with the Landlord's testimony and evidence that L.L.'s son was affiliated with drug users and dealers, and that many of these individuals were coming and going while L.L.'s son was staying at the rental unit.

Further, I note the Landlord provided a witness statement from the park manager, who indicated that several other tenants in the park saw drug deals happening and saw L.L.'s son involved in suspicious activity. The park manager also noted that a "crack pipe" was found in the driveway of the rental unit, a day prior to the Notice being issued (photo provided).

Having considered the totality of the evidence and testimony, I find it more likely than not that L.L.'s son was involved with illicit drugs (purchase/sale and/or use). The Tenant and his witness both acknowledge that L.L.'s son was a "problem", and had a history with illegal drugs. It appears that he had drug users coming and going at various times. Although it is not clear whether L.L.'s son was actively selling or buying illicit drugs, it appears he was involved with several questionable transactions witnessed by other people living in the park. The other residents and the park manager stated that the suspicious activity was in fact drug dealing, and that this unit, and more specifically, L.L.'s son was the source of the problem. There was also an illicit drug pipe found in the Tenant's driveway.

I note the Landlord asserts that L.L.'s son is a known drug dealer, and he has been seen conducting business on the property. Although the Tenant and his witness did not explicitly state that L.L.'s son was using, buying or selling drugs in the park, they acknowledged that he was a problem, and was bringing over drug addicts regularly for a period of time leading up to the Notice. Having considered the totality of the evidence and testimony, I find it more likely than not that the L.L.'s son and his guests were engaged in drug related illegal activity (buying, selling, or using) which adversely affected the quiet enjoyment, security, safety or physical well-being of other occupants in the park.

Although the source of the drug issues appear to be from L.L.'s son and his visitors, I find the Tenant was responsible for the person he was renting a room to (L.L.), as well as the guests affiliated with L.L. (her son, and his visitors).

Overall, I find the Landlord had sufficient grounds to issue the Notice based on the above noted ground.

Having made this finding, it is not necessary to consider the remaining grounds indicated on the Notice. Further, it is not necessary to further dissect or address the remaining facts and evidence presented at the hearing. The Tenants' application to cancel the Notice is dismissed. The tenancy is ending.

Under section 48 of the *Act*, when a Tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 45 regarding form and content, I must grant the Landlord an order of possession.

I find that the Notice complies with the requirements of form and content. The Landlord is entitled to an order of possession.

Conclusion

The Tenants' application to cancel the Notice is dismissed, in full.

The Landlord is granted an order of possession effective **January 31, 2020, at 1pm**, after service on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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 2, 2019

Residential Tenancy Branch