



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

On October 21, 2020, the Tenant applied for a dispute resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the “Notice”) pursuant to Section 40 of the *Act*.

The Tenant attended the hearing. R.L. attended the hearing as an agent for the Landlord(s). Neither party wished to amend the Application to have the correct name of the owner/Landlord(s) noted as the Respondent(s) to this Application. All parties in attendance provided a solemn affirmation.

The Tenant confirmed that he served the Landlord the Notice of Hearing package and some evidence by registered mail on or around October 27, 2020 and R.J. confirmed that the Landlord received this package. Based on this undisputed evidence, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served with the Tenant’s Notice of Hearing package and some evidence.

The Tenant advised that there was additional evidence submitted to the Residential Tenancy Branch on January 8, 2020 that was not served to the Landlord. He then claimed that this evidence consisted simply of pictures that the Landlord had already served him. However, when reviewing this package submitted to the branch, it contained more than just pictures. R.J. advised that this evidence was not served to the Landlord. Even if this evidence was served as claimed by the Tenant, it was not submitted to the Residential Tenancy Branch pursuant to the timeframe requirements of Rule 3.14 of the Rules of Procedure. As such, only the evidence that the Tenant included in the Notice of Hearing package will be accepted and considered when rendering this Decision. Any other evidence will be excluded and not considered.

R.L. advised that he served the Landlord's evidence to the Tenant by hand on December 1, 2020. The Tenant confirmed that he received this evidence; however, he stated that it was received on January 1, 2020. Regardless of which date it was served, as this evidence was served pursuant to the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have accepted this evidence and will consider it when rendering this Decision.

All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 48 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an order of possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on or around October 1, 2012, that rent was established at \$250.00 per month, and that it was due on the first day of each month. A tenancy agreement was never signed for this tenancy.

R.J. advised that the Notice was served to the Tenant by posting it to his door on October 21, 2020. The reasons the Landlord served the Notice are because: the "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, and put the

landlord's property at significant risk.", because 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 or the landlord and jeopardize a lawful right or interest of another occupant or the landlord.", and because the "Tenant has not done required repairs of damage to the unit/site/property/park." The effective end date of the tenancy on the Notice was noted as December 1, 2020.

R.J. advised that the Tenant has had many vehicles parked on the road, on different sites, and on his own site, and he has been asked to clean these up verbally and in writing. In addition, the Tenant has had a lot of property stored on and outside of his site that he has also been asked, verbally and in writing, to clean up. The Tenant has been warned that these problems breach the park rules. He gave the Tenant warning letters about these issues in April 2020, May 2020, and a final warning letter in September 2020. He stated that the Tenant's abundance of property on his site and on other sites has prevented him from being able to rent out nearby sites as this is an eyesore. While the Tenant has made some efforts to deal with these deficiencies, the amount of property the Tenant has on his site is unacceptable. He submitted copies of the warning letters, pictures to corroborate these claims, and a copy of the park rules, which all support the Landlord's position that the Tenant has breached the park rules and has not rectified the situation prior to service of the Notice.

The Tenant acknowledged receiving R.J.'s warning letters, and while he has not completely complied with these letters, he has been making attempts to rectify the issues. He stated that he has not been able to fully comply with R.J.'s demands due to personal and health issues. He claimed that his yard was "basically cleaned" but then he contradictorily stated that he was "working on it", that he was "doing [his] best", and that he "did what [he] could." He advised that while he has been disposing of items to clean up his yard, he has also been adding to the mess. For example, he had a flood in the rental unit, so he has placed damaged flooring in his site to be disposed of eventually.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

In considering this matter, I have reviewed the Landlord's Notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 45 of the *Act*. I find that the Notice meets all of the requirements of Section 45.

I find it important to note that a Landlord may end a tenancy for cause pursuant to Section 40 of the *Act* if any of the reasons cited in the Notice are valid. Section 40 of the *Act* reads in part as follows:

Landlord's notice: cause

40 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:*

(c) the tenant or a person permitted in the manufactured home park by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the manufactured home park,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

(d) the tenant or a person permitted in the manufactured home park by the tenant has engaged in illegal activity that

(ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the manufactured home park, or

(iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(f) the tenant does not repair damage to the manufactured home site, as required under section 26 (3) [obligations to repair and maintain], within a reasonable time;

The undisputed evidence before me is that there are park rules which state that the Tenant must maintain the site in a safe, neat, clean, and sanitary condition and that R.J. has issued multiple letters in writing to the Tenant demanding that he rectify all the breaches of the rules. While he claims that the issues have been addressed and cleaned up, he contradictorily made statements that he was "working on it", that he was

“doing [his] best”, and that he “did what [he] could.” These do not persuade me that the Tenant has cleaned up the property, and I find this is more consistent with R.J.’s submissions that there are still problems that have not been corrected. As such, this causes me to be doubtful of the reliability of the Tenant’s submissions, and as a result, I prefer R.J.’s evidence on the whole.

I understand that the Tenant may have had personal or health issues which hampered his ability to clean his site to comply with the park rules; however, this does not change the evidence before me that there were breaches of the rules that were not corrected prior to service of the Notice. Ultimately, I find that the Landlord is entitled to an Order of Possession that takes effect at **1:00 p.m. on January 31, 2021**. The Landlord will be given a formal Order of Possession which must be served on the Tenant.

Conclusion

I dismiss the Tenant’s Application. The Landlord is provided with a formal copy of an Order of Possession effective at **1:00 p.m. on January 31, 2021**. Should the Tenant or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 14, 2021

Residential Tenancy Branch