



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PARKBRIDGE LIFESTYLE COMMUNITIES INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on November 05, 2020 (the “Application”). The Tenant applied as follows:

- To dispute a One Month Notice to End Tenancy for Cause dated October 23, 2020 (the “Notice”); and
- To recover the filing fee.

The Tenant appeared at the hearing. Three Agents for the Landlord appeared at the hearing with Legal Counsel. Legal Counsel for the Landlord said at the outset that the Landlord may call witnesses; however, the Landlord did not call witnesses during the hearing.

I explained the hearing process to the parties who did not have questions when asked. The Tenant and Agent D.L. for the Landlord were affirmed.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence and no issues arose.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered the documentary evidence submitted and oral testimony and submissions of the parties. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Should the Notice be cancelled?
2. If the Notice is not cancelled, should the Landlord be issued an Order of Possession?
3. Is the Tenant entitled to recover the filing fee?

Background and Evidence

The Landlord submitted a copy of a written tenancy agreement between the parties and the parties agreed it is accurate. The tenancy started August 12, 2019 and is a month-to-month tenancy.

The Notice was submitted as evidence. The Tenant did not take issue with the form or content of the Notice. The grounds for the Notice are:

1. Tenant or a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord;
2. 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.
3. Breach of a material term.

The Details of Cause outline the issue as a video camera installed in the Tenant's home which captures the street and other homes and causes an unreasonable disturbance to other residents of the park.

Legal Counsel advised that the Notice was sent to the Tenant by registered mail October 23, 2020. The Landlord submitted evidence showing the Tenant received the Notice October 26, 2020. The Tenant testified that receipt of the Notice on October 26, 2020 sounds correct.

Legal Counsel made the following relevant submissions at the hearing. The Notice was issued because the Tenant is video recording and breaching the privacy of neighbours. The Tenant continued to do this after being warned not to. The Landlord has submitted

videos provided to them by the Tenant. The videos show a clear view out the Tenant's window and capture the street as well as two neighbours across the street. The videos show children and people out with their dogs. The video camera is not focused on the Tenant's site or home. The videos show the front windows of other homes. Residents on their own front lots are being video taped. The video camera runs continuously.

Legal Counsel made the following further submissions. The video camera and what it captures is upsetting the neighbours. The neighbours have complained to the Landlord about the Tenant's video camera and recordings. The Tenant has been warned about the video camera issue and has not stopped. The Landlord did not tell the Tenant he could not take video but asked the Tenant to adjust the camera so that it only captures his home. The videos submitted show the Tenant did not stop the video recordings.

The Landlord submitted videos taken by the Tenant. The videos capture a small portion of the Tenant's site, the sidewalk, the street and approximately five other homes. The videos capture the driveways, vehicles, yards, windows, doors and front sitting areas of other homes. The videos capture people using the sidewalk and street as well as people on their own sites.

The Landlord submitted emails, letters and statements from other residents of the park indicating their concern and discomfort with the Tenant's video camera and what it captures.

The Landlord submitted letters sent to the Tenant June 02, 2020, August 07, 2020 and September 18, 2020 advising the Tenant that his video camera is an issue. The June 02, 2020 letter states that the Tenant can have a video camera to protect his own property but that it cannot record common areas or other homes. The June 02, 2020 letter indicates that the Tenant needs to re-position his video camera. The letters indicate that other residents are bothered by the security camera and what it captures.

The Landlord submitted evidence showing the Tenant continued to have his video camera positioned such that it recorded the common areas and other homes after the letters sent in July, August and September. The August 07, 2020 letter indicates that the Tenant sent the Landlord a video from July 28, 2020 of an unleashed dog and that the video captures more than the Tenant's site. The Tenant was warned in the August 07, 2020 letter that the Landlord would take further action including issuing a notice to end tenancy if the video camera issue continued. The Landlord submitted emails from the Tenant to the Landlord on July 15, 2020, July 28, 2020, September 28, 2020 and

October 06, 2020 with videos attached. The Landlord also submitted the videos. I have looked at the videos and they continue to capture the sidewalk, street and other homes.

The Tenant provided written submissions and evidence. I have read the Tenant's written submissions and reviewed all of the Tenant's evidence. The majority of the written submissions and evidence relate to two issues. First, other residents violating pet rules and the Landlord failing to enforce the pet rules. Second, problems the Tenant has had with other residents of the park including those residents interfering with his right to quiet enjoyment and causing him issues within the park.

The Tenant's written statement includes the following relevant points. The Tenant believes the real reason for the Notice is the issue with the Landlord not enforcing the pet rules. The Tenant stopped taking videos and moved his camera when the issue was raised by the Landlord. There have been thefts and prowlers in the park which is part of the reason for his camera. The Tenant states that it is not unreasonable for him to have a security camera and that it is not against any park rules or regulations or any laws.

I note that the Tenant makes requests in his written submissions which are not related to the dispute of the Notice and are not addressed in this decision.

The Tenant submitted evidence about his character, complaints from the Tenant to the Landlord about pet rules being broken and issues with other residents of the park. The Tenant also submitted evidence about thefts and prowlers in the park.

The Tenant made the following relevant submissions at the hearing. The pet rule issue is an integral part of the problem. In relation to the video camera, the Landlord is trying to enforce rules that do not exist. The Landlord has produced no evidence to substantiate any claims. He has not broken the law. There is nothing in the rules or regulations of the park about the use of video cameras. The video camera does not run 24/7 and is motion activated. The video camera cannot see in windows of homes. The video camera would never be activated by others opening their door or being on their site because it is not that sensitive. A newsletter was sent to the residents of the park making inflammatory statements that are not true about his use of a video camera and drones. He has the camera for safety as there are thefts in the park.

The Tenant testified about the pet rule problem and the Landlord failing to enforce the pet rules. The Tenant also testified about the issues other residents have caused him.

Analysis

The Notice was issued pursuant to section 40 of the *Act* and the following subsections:

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,

(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

(g) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

The Tenant had 10 days to dispute the Notice pursuant to section 40(4) of the *Act*. I am satisfied based on the evidence provided that the Tenant received the Notice October 26, 2020. The Application was filed November 05, 2020, within time.

Pursuant to rule 6.6 of the Rules of Procedure, the Landlord has the onus to prove the grounds for the Notice. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

I am satisfied the Landlord has proven that the Tenant has significantly interfered with or unreasonably disturbed other occupants of the park for the following reasons.

I am satisfied based on the videos in evidence that the Tenant has a video camera set up in his home which captures very little of his site and captures the sidewalk, street and other homes. I am satisfied based on the videos that the videos do or can capture people walking on the sidewalk and street as well as people on their own sites. I am satisfied based on the videos that the videos show the windows, doors and front sitting areas of other homes. I do not accept the Tenant's position that the videos could not capture people in their homes. The windows of homes are clearly visible in the videos. The inside window covering of the home across the street can be seen in some of the videos and therefore I accept that the video would equally capture someone standing at that window.

I am satisfied based on the evidence provided, including the Tenant's own evidence, that the Tenant has been taking a large number of video recordings over an extended period of time.

I am satisfied other residents of the park feel interfered with and disturbed by the Tenant's video camera and what it captures. I find this based on the email from E.B. to the Landlord dated August 31, 2020, letters from the Landlord to the Tenant about the issue, statement from A.K., statement from C.Z., email from T.R. and K.B. and letter from A.M. in evidence.

I find it reasonable that other residents feel interfered with and are disturbed by the Tenant's video camera and what it captures given the number of video recordings, the period over which they were taken and the contents of the video recordings.

I am satisfied based on the June 02, 2020, August 07, 2020 and September 18, 2020 letters from the Landlord to the Tenant that the Tenant was made aware that the video camera and what it captures was interfering with and disturbing other residents. I am also satisfied of this based on the statement from A.B.

I am satisfied based on the August 07, 2020 letter from the Landlord to the Tenant that the Tenant did not remove the camera or change the position of the camera after the June 02, 2020 letter. I am also satisfied based on the emails sent from the Tenant to the Landlord in July, September and October that the Tenant did not remove the camera or change the position of the camera. I have looked at videos taken by the Tenant in July, September and October and find that the camera positioning did not change and continued to capture the sidewalk, street and other homes.

Given the above, I am satisfied the Tenant has been recording common areas and other homes, that this significantly interferes with and unreasonably disturbs other residents of the park and that the Tenant did not stop when told three times to do so. Given this, I am satisfied the Landlord has proven the grounds for the Notice.

I make the following further findings in relation to the Tenant's position.

The Tenant is not entitled to interfere with or disturb others because others are violating the pet rules or because the Landlord is not enforcing the pet rules. Nor is the Tenant entitled to interfere with or disturb others because others are interfering with or disturbing him.

I acknowledge that there may be thefts and prowlers in the park. There is no issue that the Tenant could have had a video camera aimed at his site and home to address this. However, I do not accept that the Tenant was entitled to video record the sidewalk, street and other homes due to these issues. If the Tenant could not reposition the video camera such that it did not capture the sidewalk, street and other homes, the Tenant was required to stop recording with the video camera. Further, I find it clear from the evidence submitted that the Tenant is using the video camera to record other residents violating the pet rules.

The character of the Tenant is not the issue. The Tenant engaged in behaviour that significantly interfered with and unreasonably disturbed other residents and continued this behaviour when advised it was an issue and told to stop. This is the reason the Notice is being upheld.

The Tenant is violating the tenancy agreement as he is violating term 11 of the tenancy agreement which states that the Tenant cannot disturb or annoy other occupants of the park. The violation does not have to be illegal or a violation of another law. Further, the Landlord was permitted to issue the Notice for significant interference and unreasonable disturbance pursuant to section 40(c)(i) of the *Act* regardless of whether the tenancy agreement specifically prohibited this. As well, there is no requirement that the tenancy agreement prohibit or limit the use of video cameras. The Tenant cannot interfere with or disturb others. The Tenant did so. Section 40(1)(c)(i) of the *Act* allows the Landlord to end the tenancy because of this.

I have reviewed the Notice and find it complies with section 45 of the *Act* as required by section 40(3) of the *Act*.

Section 48 of the *Act* states:

48 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant to the landlord an order of possession of the manufactured home site if

- (a) the landlord's notice to end tenancy complies with section 45 [form and content of notice to end tenancy], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

I have upheld the Notice and found it complies with section 45 of the *Act*. Therefore, I dismiss the Tenant's dispute of the Notice and issue the Landlord an Order of Possession for the rental unit. The Landlord is issued an Order of Possession effective one month after service on the Tenant.

The Tenant is not entitled to recover the filing fee given the Tenant was not successful in the Application.

Conclusion

The Application is dismissed without leave to re-apply.

The Landlord is issued an Order of Possession effective one month after service on the Tenant. This Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and 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 *Act*.

Dated: February 04, 2021

Residential Tenancy Branch