



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OFL, CNC -MT

Introduction

This hearing dealt with applications from both the landlord and the tenant under the *Manufactured Home Park Tenancy Act* (the *MHPTA*).

The landlord applied for:

- an Order of Possession pursuant to section 48.

The tenant applied for:

- more time to make an application to cancel the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 59; and
- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 40.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to

make a decision regarding this application. Neither party made any adjournment or accommodation requests. 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.

Preliminary Issue – Tennat requires more time to file application

The tenant testified that he received the notice to end tenancy on May 2, 2021 and filed his application on May 13, 2021. The tenant advised that he had a surgical procedure and was unable to drive for several weeks. The tenant testified that he filed the application one day late but was prepared to go ahead on this date and address the matter. The landlord took no position. Based on the extenuating circumstances and that the tenant provided medical documentation to corroborate his position, and that he filed only one day outside of the legislated time limit, the hearing proceeded and completed on this date.

Issue(s) to be Decided

Should the One Month Notice to End Tenancy for Cause be cancelled? If not, is the landlord entitled to an order of possession.

Background and Evidence

The landlord gave the following testimony. The landlord testified that this tenancy began on May 1, 2016. The landlord testified that the tenant has been noncompliant with park rules since September 2016. The landlord testified that the tenant continually stores items to his site like a “hoarder”. The landlord testified that the tenant erects structures without his permission and in an unsafe matter. The landlord testified that the tenant’s site is dangerous as there is unauthorized ongoing construction projects and that there is large amounts of debris and garbage on his site. The landlord testified that he has told the tenant numerous times that he is not allowed to alter the site or make changes or erect any type of structures. On April 29, 2021, the landlord posted a One Month Notice to End Tenancy for Cause for the following reasons:

“the tenant or a person permitted on the residential property by the tenant has

(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”

The tenant gave the following testimony. The tenant testified that his RV has eight different areas that leak that require him to cover it with a tarp. The tenant testified that he was attempting to build a more permanent structure to cover it to avoid it leaking further. The tenant testified that other tenants in the park are entitled to make alterations and additions and he should be able to as well. The tenant testified that the landlord would play games with him by telling him he could make a change and then later tell him that he wasn't allowed to. The tenant testified that his site has not had a lot of attention in the past year due to him suffering an injury.

Analysis

When a landlord issues a notice under section 40 of the MHPTA, they bear the responsibility to provide sufficient evidence to support the issuance of the notice. In the matter before me, the landlord provided his own testimony, several witnesses and documentary evidence to support his position. Four of the parks' tenants were witnesses for the landlord. Each of the witnesses described the subject tenant's site as "an eye sore, a health risk and a hazard". Each witness echoed the same throughout the hearing the tenant's site is dangerous as it is not being taken care of either through neglect or recklessness.

The tenant testified that he had the landlords verbal permission to make alterations or additions to his site but did not have any documentation to support that. Based on all of the evidence before me, I find that the landlord has satisfied me that the tenant has "*seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant*", on a balance of probabilities, accordingly; I find that the landlord is entitled to an order of possession pursuant to section 48 of the MHPTA. I find that the form and content of the notice comply with section 45 of the MHPTA. The One Month Notice to End Tenancy for Cause dated April 29, 2021 is confirmed, it is of full effect and force.

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Conclusion

The landlord is entitled to an order of possession. The tenancy is terminated.

The tenant's application is dismissed in its entirety without leave to reapply.

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: September 02, 2021

Residential Tenancy Branch