



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, OLC

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order cancelling a notice to end the tenancy for cause and for an order that the landlord comply with the *Manufactured Home Park Tenancy Act*, regulation or tenancy agreement.

The tenant and the landlord attended the hearing, and the tenant was accompanied by her daughter who attended as agent for the tenant. The landlord and the tenant's agent each gave affirmed testimony, and the parties were given the opportunity to question each other and to give submissions.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the landlord established that the One Month Notice to End tenancy for Cause dated May 18, 2021 was issued in accordance with the *Manufactured Home Park Tenancy Act*, specifically with respect to the reasons for issuing it?
- Has the tenant established that the landlord should be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically to divide lots with lines so everyone knows where their property lines are?

Background and Evidence

The landlord testified that she bought the manufactured home park in 2013 and the tenant resided in the park at that time, and still resides in the park in a manufactured

home owned by the tenant. Rent in the amount of a little over \$400.00 per month is payable on the 1st day of each month and there are no rental arrears. A tenancy agreement exists however a copy has not been provided as evidence for this hearing. The landlord does not reside on the property.

On May 25, 2021 the landlord served the tenant with a One Month Notice to End Tenancy for Cause (the Notice) by registered mail. A copy of the Notice has been provided for this hearing and it is dated May 18, 2021 and contains an effective date of vacancy of June 30, 2021. The reasons for issuing it state:

- 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;
 - put the landlord's property at significant risk;
- 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;
- Tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to adversely jeopardize a lawful right or interest of another occupant or the landlord;
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

With respect to the first reason for issuing the Notice, the landlord testified that the final straw was putting others at risk. The landlord received an email from a neighbour next door to the tenant's manufactured home dated May 17, 2021 stating that the tenant's son, who resides with the tenant had threatened the neighbour. A copy of the email has been provided for this hearing which states that on May 15, 2021 at about 7:30 p.m. the writer witnessed the tenant threaten the writer's wife, that the tenant would "send her son to take care of her if she did anything to upset her kids," and that "once he gets going, there is no stopping him." It also states that the writer's wife had "already experienced a frightening incident with the tenant's son while the tenant stood on the deck watching and doing nothing, and that the writer's wife doesn't need to live in fear that something else will set him off."

This is not the first incident. The landlord had kicked the tenant's son out of the park, however allowed him to return and live with the tenant due to his health condition, but told the tenant that if he didn't behave, it could affect her tenancy. A copy of an Application for Occupancy has also been provided for this hearing, dated November 23,

2019 wherein the landlord approved the tenant's son to occupy the manufactured home in the park, and the tenant's son agreed to abide by all park rules. The Application for Occupancy is a form and states that it is for the exclusive use of members of the Manufactured Home Park Owners Alliance of BC and that it complies with the *Manufactured Home Park Tenancy Act* of BC. It is signed by the tenant and states that the tenant understands and agrees that, if the tenant's son is approved as an occupant, the tenant is fully responsible for any actions of the occupant, and that the occupant is not a tenant as defined in the *Manufactured Home Park Tenancy Act*.

There is no significant risk to the landlord's property, but the landlord fears for other tenants.

The landlord has also provided another letter dated July 14, 2020 from the same neighbour being threatened by the tenant's son, and a letter dated July 15, 2020 from a witness. The landlord testified that neighbours are terrified and have compromised health issues.

With respect to illegal activity, the landlord testified that threatening a neighbour is illegal. The landlord hears about these things after the fact, or she would have called police. Tenants need their right to quiet enjoyment.

With respect to the breach of a material term of the tenancy agreement, the landlord testified that several warning letters have been issued to the tenant. On April 6, 2021 the landlord sent a letter to the tenant by registered mail about pets and smoking and the tenant's son. A copy of the park rules has also been provided for this hearing, which states, in part, "F. PETS 1. The pet population is controlled by the Landlord; no pet whether mammal, bird, reptile, insect or arachnid, may be brought into Park or acquired after occupancy commences without the prior written approval of the Landlord." The landlord's letter advises the tenant to remove 2 dogs by April 30, 2021 and to have the tenant's son move from the park by no later than May 15, 2021 and in the meantime to stop smoking marijuana outside of the home or anywhere in the park outside. On April 14, 2021 the landlord received an email of complaint about the constant barking.

The tenant's agent testified that everything is hearsay from the neighbours. The tenant's son is very sick; he had a heart attack and cannot live on his own.

Dogs were agreed upon by the landlord on the phone when they were puppies and grandfathered over to allow 2 dogs. The dogs both have bark collars. The neighbour's

window looks into the tenant's yard and the neighbour taps on the window to get the dogs barking and then complains to the landlord.

The tenant is feeling very harassed because of what 1 other tenant says. The tenant is 72 years old, and her son is not a bad person.

With respect to the application for an order that the landlord comply with the *Act*, regulation or tenancy agreement, the tenant's agent testified that the tenant wants lines divided between lots so everyone knows where their property is.

Analysis

Where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Manufactured Home Park Tenancy Act*, which can include the reason(s) for issuing it. In this case, I have reviewed the One Month Notice to End Tenancy for Cause and I find that it is in the approved form and contains information required by the *Act*. The reasons for issuing it are in dispute.

I have reviewed all of the evidentiary material, and with respect to illegal activity, it is illegal to threaten to cause death or serious bodily harm to another person. The complaint from the neighbour doesn't specify either. However, the landlord has an obligation to ensure that all residents enjoy their homes in the manufactured home park.

The tenant's position is that the landlord's reasoning for ending the tenancy is all hearsay from one other tenant, and two dogs were grandfathered in, and testified that the landlord agreed over the phone. The Park Rules specify prior written approval of the landlord, and states that the landlord may at any time withdraw approval. The rules are signed by the tenant, and the parties agree that there is no prior written approval of the landlord.

It is not for me to decide that the landlord should rescind the Notice for compassionate reasons, but whether or not the landlord had cause to issue the Notice ending the tenancy at the time it was issued.

In the circumstances, I am satisfied that the landlord has proven that the tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed the neighbours, and a material breach of the tenancy agreement that was not corrected within a reasonable time after written notice to do so with respect to pets and the Occupancy Agreement.

The tenant's application to cancel the One Month Notice to End Tenancy for Cause dated May 18, 2021 is dismissed.

The *Manufactured Home Park Tenancy Act* states that where I dismiss a tenant's application to cancel a notice to end a tenancy given by a landlord, I must grant an Order of Possession in favour of the landlord, so long as the Notice given is in the approved form. Having found that it is in the approved form, I grant an Order of Possession in favour of the landlord. Since the effective date of vacancy stated in the Notice has passed, I grant the Order of Possession effective on 10 days notice to the tenant.

Since the tenancy is ending, I dismiss the tenant's application for an order that the landlord comply with the *Act*, regulation or tenancy agreement.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

I hereby grant an Order of Possession in favour of the landlord effective on 10 days notice to the tenant.

This order is final and binding and may be enforced.

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: October 05, 2021

Residential Tenancy Branch