



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding INFINITY PROPERTIES (HIDEWAY)
LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Manufactured Home Park Tenancy Act* (the *Act*) for:

- 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.

Issue(s) to be Decided

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an Order of Possession?

Background and Evidence

LS spoke on behalf of the landlords and gave the following testimony. The tenancy began on August 1, 2018 with the rent of \$511.00 due on the first of each month. The landlord issued a One Month Notice to End Tenancy for Cause on July 30, 2021.

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:

(d)the tenant or a person permitted on the residential property by the tenant has

(i)significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(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;

(e)the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

(i)has caused or is likely to cause damage to the landlord's property,

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

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

(f)the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

(g)the tenant does not repair damage to the rental unit or other residential property, as required under section 32

(h)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 landlord testified that the tenant's son is the reason for the issuance of the notice. The landlord testified that the tenant's son is verbally abusive and aggressive towards many members of the park. The landlord testified that the tenant's son was abusive towards herself and her husband, to the point where she feared for her safety. The landlord testified that the tenants have breached numerous conditions and terms of their tenancy agreement, park rules, and the *Manufactured Home Park Tenancy Act*. The landlord testified that the residents of the park are all seniors and that they fear the tenants 25-year-old son. The landlord testified that many of the park residents were afraid to come and testify.

The landlord testified that she sent numerous text messages to the tenant to advise her of her sons' behaviour, but she rarely responded to the messages. The landlord testified that she spoke to the tenant personally on three occasions to address the issues, but the tenant's son's behaviour got worse and worse each time. The landlord testified that his poor behaviour has escalated since issuing the notice. The landlord testified that the tenant has significantly disrupted the park to the point that people are scared of him.

WL testified that he has observed the tenant's son yelling, screaming and swearing in the park on numerous occasions. WL believes the tenants son used his pellet gun to shoot multiple holes into the siding of his home. WL testified that he has loved living in the park except since the subject tenants moved in. WL testified that they have negatively impacted his enjoyment of the park significantly.

The tenant gave the following testimony. The tenant adamantly disputes the landlord's allegations. The tenant testified that her son is upset that she might be evicted from the park. The tenant testified that she doesn't feel the need to respond to every single message sent to her by the landlord. The tenant testified that she wasn't present during most of the alleged incidents.

The advocate submits that the landlord is relying on hearsay evidence and most of it is circumstantial. The advocate submits that the landlord has not met the standard to show that this tenancy must end.

Analysis

When a landlord issues a notice to end tenancy under section 47 of the Act, they bear the burden of providing sufficient evidence to justify the issuance of the notice. The landlord needs only demonstrate that one of the reasons identified in the 1 Month Notice is valid to end a tenancy for cause. The tenant was not present at most of the alleged incidents. The tenant's son chose not to participate in this teleconference to address the allegations made against him. Given the contradictory testimony and positions of the parties, I must first turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanor as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

Considered in its totality I find the landlord to be a more credible witness than the tenant. The landlord provided consistent, logical testimony which was supported with documentary evidence where available. The landlord admitted when she could not recall specific facts and, where appropriate, referred to her notes and documents prepared prior to this hearing to assist her recollection.

The tenant was argumentative, focused on irrelevant matters and conducted herself in an agitated and irrational manner. I found that much of the tenant's submissions to have little to do with the matter at hand and was concerned with attacking the landlord and making herself appear to be the wronged party. When given the opportunity to cross-examine the landlord the tenant chose to ask irrelevant personal questions rather than any substantive ones. Towards the conclusion of the hearing the tenant continually interrupted the landlord's testimony, shouting disagreement with her evidence.

Based on the foregoing, where the evidence of the parties clashed, I found that the landlord's version to be more credible and consistent with how a reasonable person would behave.

Based on the landlords documentation and testimony, the testimony of the witness and the lack of any firsthand information or observations from the tenant, I am satisfied on a balance of probabilities that the landlord has provided sufficient evidence to prove that the tenants son "*significantly interfered with or unreasonably disturbed another*

occupant or the landlord of the residential property”; accordingly, I find that the tenancy must end.

Section 48 of the *Act* reads in part as follows:

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 rental unit 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 find that the landlord's 1 Month Notice was issued on the correct form and included all of the required information in order to comply with section 45 of the *Act* as to the form and content of that Notice. I dismiss the tenant's application to cancel the 1 Month Notice and issue the landlord an Order of Possession in accordance with section 48(1) of the *Act*. Although the effective date on the notice is listed as September 30, 2021, the corrected effective date is August 31, 2021 as per section 46(3) of the *MHPTA*.

In this case, this required the tenants to vacate the premises by August 31, 2021. As that has not occurred, I find that the landlord is entitled to a 2-day Order of Possession. The landlord is granted an Order of Possession pursuant to Section 48 of the *Act*, which must be served on the tenant(s). If the tenants do not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Conclusion

The notice dated July 30, 2021, it is of full effect and force. The tenancy is terminated. The landlord is granted an order of possession.

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: December 13, 2021

Residential Tenancy Branch