



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

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

- an early end to this tenancy and an Order of Possession, pursuant to section 49.

Both parties attended the hearing and were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses. The tenant confirmed receipt of the landlord's application for dispute and evidentiary package. The tenant is found to have been duly served with these documents in accordance with the *Act*.

The landlord explained that he received the tenant's evidence on December 5, 2021 by email and had not had a chance to review it. The tenant acknowledged having sent it one day prior to today's hearing. She also stated that some evidence was sent on November 25, 2021, also by email. I note Rule of Procedure 10.4 requires respondent's evidence to be served at least two days before the hearing. I therefore decline to consider the evidence served by the tenant on the landlord on December 5, 2021 and will only consider the tenant's evidence of November 25, 2021.

Issue(s) to be Decided

Is the landlord entitled to an Early End of Tenancy?

Background and Evidence

This tenancy consists of a rural ranch property on which the tenant occupies a trailer. Rent is noted in the application as being \$600.00 per month and the tenancy is recorded as having begun on October 1, 2016.

The landlord has applied for an Early End of Tenancy, citing the ongoing danger to the ranch manager, W.G., and danger to the property. The landlord explained the tenant was provided with a 'lower' rent because she was expected to help on the ranch and to assist with the daily operation of the ranch. Further, the landlord described that ranch manager W.G. as being 83 years old and in need of assistance for his medical issues, along with the operational needs of the ranch.

The landlord requested that the tenancy be ended because the tenant had kept horses on the property without permission, had rendered the ranch non-functional due to her ongoing disagreements with W.G. because of the lack of actual ranch work being performed and as noted above, so that W.G. can receive help and medical support on this remote property. Included in the landlord's evidentiary package was a letter documenting W.G. ill health.

The tenant disputed all aspects of the landlord's arguments related to the Early End of Tenancy. The tenant argued that the landlord's application had no merit and was based on disputes she had with W.G. as a result of her disputing a previous 2 month Notice to End Tenancy for Landlord's Use.

Analysis

Section 49 of the *Act* requires the landlord to show, on a balance of probabilities, that the tenancy must end earlier than the thirty days indicated on a 1 Month Notice, due to the reasons identified in section 49(2)(a) of the *Act* **AND** that it would be unreasonable or unfair for the landlord or other occupants to wait for a 1 Month Notice to take effect, as per section 49(2)(b).

Section 49(2)(a) lists the following as reasons why the Director may make an order ending a tenancy early:

- (a) the tenant or a person permitted in the manufactured home park by the tenant has done any of the following:

(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;

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

(iv) engaged in illegal activity that

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

(B) 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

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

(v) caused extraordinary damage to the manufactured home park

On a balance of probabilities and for the reasons stated below, I find that the landlord's application fails both parts of the test described by section 49 of the Act. I find that the landlord did not provide sufficient evidence that it would be "unreasonable" or "unfair" to wait for their 1 Month Notice to be decided on the merits of a 1 Month Notice, further, I find little evidence that the tenant's actions could be said to fall into any of the criteria listed above.

While I acknowledge the ongoing issues between the parties, and I have considered W.G. health issues I find these are elements related to the natural geography and isolation of the property, versus any action (or inaction) taken by the tenant. While the landlord argued that the tenant's failure to work with W.G. to operate the property should also be considered, along with a level of care required for W.G., I find these arguments are not sufficient to consider an Early End of Tenancy. This type of application is reserved for very serious matters where there is an immediate risk to person or property.

Residential Tenancy Policy Guideline #40 notes, “The director has the discretion to decide what constitutes an extremely urgent case. In general, these are cases where there is a demonstrable immediate danger or threat. For example the director may determine a case is extremely urgent and set it down early if: a tenant has assaulted the landlord and there is sufficient evidence provided with the application (such as a video recording of the assault, witness statements, or a statement from a police officer).”

This Guideline continues by noting, “Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.”

Accordingly, I dismiss the landlord’s application for an Early End to this tenancy. This tenancy shall continue until it is ended in accordance with the *Act*.

Conclusion

The landlord’s application is dismissed 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 06, 2021

Residential Tenancy Branch