



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PINEWOOD MH PARK INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A participatory hearing, via teleconference, was held on March 21, 2022. The Tenant applied to cancel a 1 Month Notice to End Tenancy for Cause (the Notice), pursuant to the *Manufactured Home Park Tenancy Act* (the "Act").

Both parties attended the hearing and provided affirmed testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties confirmed receipt of each other's documentary evidence and no issues were raised with respect to service.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

- Is the Tenant entitled to have the Landlord's Notice cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

Both parties provided a significant amount of documentary evidence and oral testimony. In this review, I will not summarize and address all evidence and testimony. However, I will focus on the facts and evidence which underpin my findings.

A copy of the tenancy agreement was provided into evidence, which shows that the tenancy started September 1, 2015. Current monthly rent is approximately \$336.00, and is due on the first of the month. The Tenants explained that the park was bought in November of 2020, since that time it has been under new management and ownership. The Tenants stated that there were never issues with the previous owner, and it is only recently that the new owners have started taking issue with subleasing clauses, and issues with noise/park behaviour.

The Tenants explained that they rent this manufacture home site from the home park, and they own the trailer that sits on the home site. Subsequently, the Tenants rent this manufactured home to sub-tenants, and have done so for many years. The Tenants stated that this particular sub-tenant who now resides in the unit has lived in their unit since June of 2021.

The Tenants stated that they had a good relationship in the past with the park managers, and were always told if there were any issues that needed addressing, so they are surprised that this type of relationship has not continued.

The Landlord stated that they issued the Notice because the Tenant's have sublet the unit without written permission, which is contrary to the tenancy agreement, and also because the sub-Tenant has been disturbing other park residents with loud and aggressive behaviour.

The Tenant's acknowledge receiving the Notice on November 30, 2021. A copy of the Notice was provided into evidence, which shows the Landlord issued the Notice for the following reasons:

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 has assigned or sublet the rental unit/site without Landlord's written consent.

Under the "details of cause" section of the Notice, the Landlord stated the following:

Details of the Event(s):

On November 20, 2021 a written complaint was received of extremely loud music that kept another park resident awake, it was shut down before the tenant decided to call the RCMP.

On November 30, 2021 a second written complaint for the same loud music but this time with yelling at approx. 5:30 pm- the RCMP were called and attended the residence.

There have been also been verbal complaints, however only written complaints can be addressed for these circumstances.

This has adversely affected the quiet enjoyment, security and safety of another park tenant and the landlord.

The Landlord pointed to the two written emails from another Tenant in the park, who has been unreasonably disturbed by the sub-tenants living in this rental unit. The first date was November 20, 2021, when the sub-Tenant was playing “extremely” loud music, late at night, causing loss of sleep. The second incident was on November 30, 2021, when this same individual complained of more loud music, and yelling. Both of these incidents were documented in the emailed complaints to the Landlord, but the Landlord stated that several other people in the park have complained verbally. The Landlord stated that she does not action verbal complaints, so it wasn’t until the emails of November 20 and November 30, 2021, were received that she took action to prevent further disruptions to others in the park.

The Tenants stated they wished they were given a chance to address these issues with their sub-Tenant before a Notice was issued.

Analysis

In this decision, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

In the matter before me, the Landlord has the onus to prove that the reasons in the Notice are valid. I note in civil law matters such as these, the standard of proof is based on a balance of probabilities, not the criminal court standard of proof beyond a reasonable doubt.

The Landlord has issued the Notice under multiple grounds. However, I first turn to the following ground:

Tenant or a person permitted on the property by the Tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the Landlord.*

I note the Tenants own this manufactured home, and rent the home site from the Landlord. The Tenants also do not live in this rental unit, and instead they sub-lease their manufactured home to the sub-tenants. I further note that although the Tenants have a sublease agreement with the sub-Tenant, the sub-Tenant has no contractual relationship with the Landlord. In this case, the Tenants are responsible for any person they sub-lease their property to. The Tenants are still responsible for fulfilling the rights and responsibilities under their tenancy agreement. This includes their obligation to ensure rent is paid to the Landlord, regardless if the sub-tenant pays the Tenant. Further, the Tenants are also responsible for the behaviour and conduct of the individuals who sub-lease their unit, and any impact their behaviour may have on others in the park.

I have reviewed the evidence and testimony on this matter, and I accept that the sub-tenants caused a disturbance which impacted at least one other park resident, as per the written email complaints from this other park resident. I accept the Landlord's explanation that the sub-Tenants unreasonably disturbed others on multiple occasions, with loud yelling and music, sometimes at late/inappropriate times. This occurred at least twice, once on November 20, and once on November 30, 2021. It also appears others have been disturbed, and complained verbally. However, no corroborating evidence for these complaints were provided.

Overall, I find the Landlord had sufficient grounds to issue the Notice based on the above noted ground, and the written complaints, as the sub-Tenant has unreasonably disturbed another occupant with excessive noise on more than one occasion. As stated above, the Tenant's are liable for the sub-Tenant's poor conduct, and I find the Landlord has sufficient cause to end the tenancy.

Having made this finding, it is not necessary to consider the remaining grounds indicated on the Notice, regarding illegal subleasing. Further, it is not necessary to further dissect or address the remaining facts and evidence presented at the hearing. The Tenants' application to cancel the Notice is dismissed. The tenancy is ending.

Under section 48 of the *Act*, when a Tenant's application to cancel a Notice to end tenancy is dismissed and I am satisfied that the Notice to end tenancy complies with the requirements under section 45 regarding form and content, I must grant the Landlord an order of possession.

I find that the Notice complies with the requirements of form and content. The Landlord is entitled to an order of possession, effective March 31, 2022, at 1 pm.

Conclusion

The Tenants' application to cancel the Notice is dismissed, in full.

The Landlord is granted an order of possession effective **March 31, 2022, at 1pm**, after service on the Tenants. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be 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 *Manufactured Home Park Tenancy Act*.

Dated: March 21, 2022

Residential Tenancy Branch