



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 in response to an Application for Dispute Resolution filed by the Tenant on January 07, 2022 (the “Application”). The Tenant applied as follows:

- To dispute a One Month Notice to End Tenancy for Cause dated December 28, 2021 (the “Notice”)
- For an order that the Landlord comply with the Act, regulation and/or the tenancy agreement

This was an adjourned hearing. The first hearing occurred April 07, 2022, and an Interim Decision was issued April 08, 2022. This Decision should be read with the Interim Decision.

As stated in the Interim Decision, I am only dealing with the dispute of the Notice.

At the second hearing, the Tenant appeared with the Advocate. The Tenant did not call their witness at the second hearing because the witness was unavailable. The Advocate asked to submit further evidence from the witness after the hearing had concluded. Rule 3.14 of the Rules of Procedure (the “Rules”) required the Tenant to submit evidence, and serve it on the Landlord, not less than 14 days prior to the hearing. I denied the Advocate’s request to submit further evidence because the Advocate acknowledged the witness cannot provide direct evidence about the specific incidents that form the basis for the Notice. I found the proposed evidence not sufficiently relevant to allow the Tenant to submit further evidence after the hearing had concluded.

At the second hearing, Legal Counsel for the Landlord appeared with T.C., F.O., K.C., S.P. and C.S. T.C. and F.O. appeared as representatives for the Landlord. K.C., S.P. and C.S. appeared as witnesses for the Landlord. The witnesses were not involved in the hearing until required.

I explained the hearing process to the parties. I told the parties they are not allowed to record the hearing pursuant to the Rules. The parties, other than Legal Counsel, and witnesses provided affirmed testimony.

As stated in the Interim Decision, an issue of jurisdiction arose at the first hearing. At the second hearing, Legal Counsel for the Landlord acknowledged the RTB has jurisdiction to decide this matter and therefore the jurisdiction issue has not been addressed further in this Decision.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence at the first hearing and no issues arose.

The parties were given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered all evidence provided. I will only refer to the evidence I find relevant in this decision.

I note that I had to ask T.C. and F.O. to step out of the room while one of the Landlord's witnesses was providing testimony at the second hearing because T.C. and F.O. were whispering answers to the witness. Legal Counsel for the Landlord remained in the hearing throughout the second hearing.

Issues to be Decided

1. Should the Notice be cancelled?
2. If the Notice is not cancelled, should the Landlord be issued an Order of Possession?

Background and Evidence

The parties agreed there is no written tenancy agreement in this matter. The Advocate advised that the Tenant moved into the park in September of 2020. The Tenant confirmed the site is their permanent residence. As stated, at the second hearing, the parties agreed the RTB has jurisdiction to decide this matter.

The Notice was submitted. The Tenant did not take issue with the form or content of the Notice. The grounds for the Notice are:

1. Tenant or a person permitted on the property by the Tenant has:
 - a. Significantly interfered with or unreasonably disturbed another occupant or the Landlord.
 - b. Seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.

The Details of Cause section of the Notice outlines four incidents as the basis for the Notice:

1. An October 26, 2021 incident during which the Tenant was verbally abusive to F.O., called F.O. names and swore at F.O. The Tenant was then verbally abusive to K.C.
2. An October 26, 2021 incident during which the Tenant sent harassing text messages to K.C.
3. An allegation that the Tenant is constantly harassing their neighbour A.M. including on November 13, 2021 when the Tenant called A.M. names and trespassed onto A.M.'s site.
4. A December 17, 2021 incident during which the Tenant became verbally abusive and aggressive towards S.P. and called S.P. names.

The Landlord's representatives advised that the Notice was posted to the door of the Tenant's home December 28, 2021. The Tenant advised that they received the Notice December 31, 2021.

I told the parties I would only hear on the grounds for the Notice outlined in the Details of Cause section. As explained at the hearing, it was open to the Landlord to state more generally that the Tenant has a history of disturbing others in the park; however, this is not what the Landlord did. The Landlord chose to outline specific incidents as the basis for the Notice and I can only consider these specific incidents. Given this, I have only outlined the evidence provided about the specific incidents outlined in the Details of Cause section of the Notice.

Landlord's Position

T.C. submitted that the issues with the Tenant include the Tenant's behaviour, harassment, language, intoxication as well as the Tenant being verbally aggressive and demanding. T.C. sought an Order of Possession effective one month after service on the Tenant.

T.C. testified about the October 26, 2021 incident as relayed to them by F.O. T.C. testified about the Tenant interacting with F.O. in an abusive manner. T.C. submitted that the Tenant ambushed F.O. when nobody else was at the rental office. T.C. said the Tenant was yelling at F.O. about past issues and accusing F.O. of sexual harassment.

F.O. testified that the Tenant's behaviour on October 26, 2021 was upsetting.

T.C. referred to text messages the Tenant sent to K.C. on October 26, 2021 and submitted that the Tenant is disturbing other tenants of the park. T.C. testified that the Tenant sends threatening text messages and pointed to the text from the Tenant in evidence which states, "the more you interfere is [sic] more harm to your own security and security [sic]."

In relation to the November 13, 2021 incident, T.C. testified that the Tenant was screaming, yelling and swearing at T.C. T.C. testified that A.M. told them the Tenant bullies and harasses A.M. T.C. testified that A.M. is "marginalized" and has "multiple barriers" and submitted that the Tenant "picks on" A.M.

T.C. testified about the December 17, 2021 incident stating that the Tenant was intoxicated and abusive to other tenants of the park. T.C. testified about the Tenant making inappropriate comments about other tenants' weight.

S.P. provided the following testimony. On December 17, 2021, S.P. and K.C. were walking down the road and ran into the Tenant. The Tenant made passive aggressive comments about the party other tenants of the park were having. The Tenant stated that they were not invited because they "didn't meet the weight requirements". The Tenant was yelling and called S.P. an inappropriate name. The December 17, 2021 incident came out of the blue and was vulgar, startling and upsetting. The Tenant is belligerent and rude when intoxicated. They have seen the Tenant behave aggressively towards others.

The Advocate questioned S.P. about their behaviour and put to S.P. that it was them who was rude to the Tenant, followed the Tenant, swore at the Tenant and called the Tenant names. S.P. denied that they behaved in the manner suggested by the Advocate.

K.C. testified as follows. On October 26, 2021, the Tenant sent unprovoked harassing text messages to K.C. K.C.'s husband was in the hospital and the Tenant was stating that K.C. did not know whether their husband would live or die.

K.C. testified that the Tenant is verbally abusive to others in the park and is "constantly on" A.M.

K.C. further testified as follows. On December 17, 2021, K.C. was with S.P. K.C. and S.P. ran into the Tenant who made comments about not being invited to a party with other tenants "because [the Tenant] didn't fit the weight requirements". The Tenant was yelling and calling the other tenants an inappropriate name.

The Advocate suggested to K.C. that on October 25, 2021, K.C. followed the Tenant, swore at the Tenant and called the Tenant names. K.C. denied they behaved in the manner suggested by the Advocate. The Advocate put to K.C. that their husband is verbally abusive to tenants of the park and K.C. denied this.

C.D. testified as follows. On December 17, 2021, they could hear an incident between the Tenant and S.P. including the Tenant screaming at S.P., using abusive language towards S.P. and calling S.P. inappropriate names. The Tenant is disruptive in the park and C.D. avoids the Tenant.

In response to questions from the Advocate, C.D. acknowledged it was hard to tell who was saying what during the December 17, 2021 incident between the Tenant and S.P.

T.C. testified that the Tenant has not changed their behaviour despite warnings issued to the Tenant about their behaviour.

Legal Counsel submitted that the Landlord's evidence shows a consistent pattern of verbally abusive behavior by the Tenant.

The Landlord submitted documentary evidence showing T.C. was in the hospital on a date the Tenant seems to indicate in their evidence that T.C. and K.C. were banging on the Tenant's door yelling for the Tenant to come out.

The Landlord submitted documentary evidence which tends to show that the Tenant provided misleading information in their materials. The Tenant submitted a statement dated October 27, 2021 outlining issues the Tenant has had with the Landlord's representatives which states that the Tenant called police in October of 2021 regarding the issues. The Tenant provided the police file number. The Landlord submitted documentation showing the police file number actually relates to a call by the Tenant November 13, 2021 in which the Tenant complained about T.C. knocking on the Tenant's door and leaving written notices for the Tenant which the Tenant felt harassed by.

The Landlord submitted the park rules which state that violence, verbal abuse and harassment will not be tolerated.

T.C. submitted a written statement disputing that they have ever bullied, intimidated, harassed or defamed the Tenant. T.C. also denies that they have issued fraudulent warning notices as alleged by the Tenant.

F.O. submitted a written statement about the October 26, 2021 incident in which F.O. states the Tenant became angry with F.O. and called F.O. names.

K.C. submitted a written statement about the October 26, 2021 incident in which K.C. heard the Tenant call F.O. an inappropriate name and the Tenant called K.C. an inappropriate name.

The Landlord submitted text messages from the Tenant to K.C. in September and October of 2021.

T.C. submitted a written statement dated November 13, 2021 in which T.C. states that the Tenant yelled and swore at T.C. on this date. The statement also says the Tenant continually harasses A.M. and has been asked numerous times to stop this behaviour.

S.P. provided a written statement dated December 19, 2021 about the Tenant verbally attacking S.P., making rude comments towards S.P. and being belligerent on December 17, 2021. The statement says S.P. felt hurt and humiliated over the incident. S.P. states that the Tenant was yelling, intoxicated and out of control.

K.C. submitted a written statement dated December 19, 202 about the December 17, 2021 incident and states that the Tenant was verbally attacking S.P., yelling and intoxicated.

Tenant's Position

The Tenant disputed the Landlord's evidence and testified that it is not accurate.

The Tenant testified as follows. It is the Landlord's representatives who are harassing the Tenant. The Landlord's evidence is not true. The Tenant stays in their home and rarely leaves. The Tenant does not feel safe in the park due to constant bullying from the Landlord's representatives and their friends. F.O. has made comments of a sexual nature to the Tenant. The Landlord's witnesses are all friends of the Landlord's representatives. The Landlord's representatives are exaggerating and lying about what occurred between them and the Tenant.

The Tenant further testified as follows. When they went to pay rent on October 26, 2021, they spoke with F.O. and K.C. was present. K.C. chased the Tenant out of the office, swore at the Tenant and called the Tenant names.

The Tenant acknowledged sending the text messages attributed to the Tenant and submitted as evidence. The Tenant testified that the text messages were not meant to be threatening.

The Tenant denied that they have ever been verbally abusive towards A.M.

In relation to the December 17, 2021 incident, the Tenant testified that it was S.P. and K.C. who followed them, swore at them and called them names.

The Tenant and Advocate suggested that the warning notices in evidence, and the Notice, were issued in retaliation for the Tenant winning a previous arbitration. The Tenant and Advocate testified that the Landlord's representatives are lashing out at the Tenant's friends in the park due to the poor relationship between the parties. The Tenant and Advocate submitted that the warning notices issued to the Tenant are fraudulent. The Tenant and Advocate submitted that the incidents outlined in the Notice did not occur and are not serious enough to warrant ending the tenancy.

The Tenant submitted a previous One Month Notice dated May 18, 2021, showing the Landlord issued it for similar grounds to the Notice.

The Tenant submitted a written statement dated September 10, 2021 from another tenant of the park stating that the Tenant has never been a problem.

The Tenant submitted documentary evidence showing other tenants have had issues with T.C. and K.C.

The Tenant submitted warning notices issued to the Tenant by the Landlord's representatives. I note that some of the warning notices do not include specific information about the alleged problem.

Analysis

The Notice was issued pursuant to section 40 of the *Act* and the following subsections:

40 (1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(c) the tenant or a person permitted in the manufactured home park by the tenant has

- (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...

The Tenant had 10 days to dispute the Notice pursuant to section 40(4) of the *Act*. I am satisfied based on the testimony of both parties that the Tenant received the Notice December 31, 2021. The Application was filed January 07, 2022, within time.

Pursuant to rule 6.6 of the Rules, the Landlord has the onus to prove the grounds for the Notice. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

I accept that the four incidents outlined in the Notice occurred because the Landlord has provided sufficient evidence to prove on a balance of probabilities that they did. The Landlord's representatives provided affirmed testimony about the incidents. The Landlord called witnesses to support that the incidents occurred. The Landlord provided documentary evidence which supports that the incidents occurred. Further,

the Landlord provided documentary evidence which does call into question the reliability and credibility of the Tenant to some degree. In the circumstances, I prefer the Landlord's representatives' versions of events over those of the Tenant.

I am satisfied the four incidents outlined in the Notice are sufficient to amount to a significant interference with, or unreasonable disturbance of, another occupant or the Landlord for the following reasons. The incidents are ongoing in that they occurred over a period of three months. This is not a situation where the Tenant behaved poorly one time, but four separate incidents. I accept that the four incidents were unprovoked based on the witness testimony and documentary evidence, for example, the text messages. It may be that the park managers are also behaving unprofessionally; however, I do not find that this justifies the incidents outlined in the Notice.

I have reviewed the Notice and find it complies with section 45 of the *Act* as required by section 40(3) of the *Act*.

Given the above, I dismiss the Tenant's dispute of the Notice and uphold the Notice.

Section 48 of the *Act* states:

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 manufactured home site 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.

Pursuant to section 48(1) of the *Act*, I issue the Landlord an Order of Possession effective one month after service on the Tenant.

Conclusion

The Landlord is issued an Order of Possession effective one month after service on the Tenant. This Order must be served on the Tenant. If the Tenant does not comply with the Order, it may be filed in the Supreme Court and 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 *Act*.

Dated: June 10, 2022

Residential Tenancy Branch