



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the *Manufactured Home Park Tenancy Act* (the “Act”), to cancel a One Month Notice to End Tenancy for Cause, (the “Notice”) issued on August 8, 2022..

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed that they have exchanged and received each others respective evidence..

In a case where a tenant has applied to cancel a Notice, Rule 7.18 of the Residential Tenancy Branch Rules of Procedure require the landlord to provide their evidence submission first, as the landlords have the burden of proving cause sufficient to terminate the tenancy for the reasons given on the Notice.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

At the outset of the hearing the landlord clarified the tenant’s application as the tenant had indicated in the details of dispute that they had not been issued written notice of eviction. I indicated that appears the tenant is disputing the Notice issued on August 8, 2022. While I accept the tenant application was filed prior to receiving the Notice and was not properly amended. I do not find it prejudicial to the landlord to deal with the merits of the Notice as the landlord has provided a large volume of evidence in support of the issuance of the Notice.

At the outset of the hearing the landlord's witness KC indicated that they had a stroke earlier this year and have difficulties with talking for any length of time. KC stated that they have provided written statements and would like that to be reviewed along with their testimony. I ensured KC I would review their written statement as that was filed in evidence.

Issues to be Decided

Should the Notice be cancelled?

Background and Evidence

The tenancy began on September 1, 2012. Rent in the amount of \$600.00 is payable each month.

The parties agreed that the Notice was served on the tenant indicating that the tenants are required to vacate the rental site on September 8, 2022. I note that effective date within the Notice would automatically correct under the Act to September 30, 2022., pursuant to section 46 of the Act.

The reason stated in the Notice was that the tenants have:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health, safety or lawful right of another occupant or the landlord; and
- put the landlord's property a significant risk.

The landlords testified that the tenants subject to the Notice, have been ongoing harassing and bullying the occupants in site #17. The landlords stated that this is an RV park, and the site area is determined between the two poles and the gravel-to-gravel area. The landlords testified that the occupants in site #17 are doing nothing wrong by having their plants on the gravel area of their site or when accessing the backside of their site to do maintenance on their home.

The witness KC testified that they have been harassed by the tenants since they first moved onto the site and they tried to ignore the tenants; however, it has been escalating each year and in 2022 it became unbearable. KC stated that they cannot

even access the left-side of their trailer without being harassed, called names and with physical threatening behaviour. The tenants have physically removed their plants, thrown a hose at them, called them names and interfere with when making repairs or to maintain their home and it is very upsetting to them.

KC testified that no matter what they do to try to defuse the situation the bullying continued and as a result they started to record the incidents as it could no longer be ignored as they needed to protect themselves and it has been very difficult since they had a stroke and most of the maintenance has fallen upon their partner.

KC submits that in May 2022 even before they had planted their plants for the year the tenants were telling them that there were no plants allowed this year. KC stated that they checked with the owner, and they were informed that they were allowed to continue to have their plants, which were tomatoes and herbs.

KC submits that they have some plants on the backside of their home, which they like this area as it gives more sun to their plants. However, the tenants do not want to see any plants except for their own.

KC submits in June there were 2 incidents that occurred. Where the tenant CM approached them at their site telling them they could not water their plants because it was too early, which was around 8pm and they wanted them to water between 7am and 8 am because they did not think it was fair that when they looked outside their home they would see me. However, if they tried to water their plants in the morning they would also be harassed by GM.

KB submits on a different night the tenant GM came running out telling their partner to get off their property. KB stated that they were on their own property watering their tomatoes. KB submits that they were subject to a string of profanity and name calling such as being called fucking stupid, and ignorant. KB submits the GM then went over to their waterline and removed the hose and threw it at them.

KB submits that on July 2, 2022, they met with the landlords and the tenant CM to resolve the matter; However, CM was saying that I was to blame for all the problems and just wanted us to move our plants. KB stated they left due to the swearing and accusations.

KB submits that in the 3rd week of July they were watering their plants and the tenants came out and wanted to know why they were watering their plants in the morning and

not after 9pm. KB stated GM stated that they need to learn the rules and the tenant CM stated that they are acting childish and should not be so stupid.

KB submits that in July they were also misting their plants to remove the psyllids at about 7:30pm and the tenants put in a complaint to the landlord, which was unfounded as they were entitled to be maintain or picking the tomatoes from their plants.

KB submits on July 26, 2022, they went to measure their exterior of their home for skirting after 8pm and the tenant harassed them stating they were not allowed to do so without having their permission to access the backside of their site and they were not allowed to attend their plants until after 9pm.

JL testified that the amount of bullying and harassment is unacceptable. JL stated that they have a few tomato plants on that side of their site for the sunlight and the tenants have turned in into a full warfare. JL stated that they were away for two weeks of June; however, as soon as they were home the swearing, and issue of their plants continued. JL stated that every time they had to do something it was fearful and that the tenant CM was also involved.

Filed in evidence are audio and video recordings.

The audio recording of July 27, 2022, shows the tenant was questioning the occupant on what they are doing outside of their trailer and why they did not get their permission. KB responded they are entitled to measure their trailer for a skirt on their own site. The tenant continued on stating the tenants are not entitled to water or pick their tomatoes unless it was between 9pm and 9am. The tenant continued to badger the occupant for about 10 minutes.

The audio recording June 29, 2022, the tenant approached the occupant who was working on their own trailer shouting to 'get the fuck off my property". The tenant stated they have asked the occupant at least a dozen time this summer and for the last two years they have been fighting to put their belongings on the other side of the trailer. The occupant is heard to be upset due to the harassment and walks away. The tenant continues to argue with the occupant. During the audio the tenant refers to the occupant as stupid, and ignorant. You can hear the tenant unscrewing the hose of the occupant. This clearly supports the earlier unrecorded incident of the tenant unscrewing the occupant's hose during another confrontation as it was referred to in the recording.

The landlord testified that watering with a hose is restricted to after 9pm and 9am as the park is on a well water which the water is needed for the park during the day. The landlords stated that there is no restriction that someone cannot hand water a plant and the tenants ongoing behaviour regarding the other occupants' plants was ridiculous.

The landlord testified that they had a meeting with the tenants on July 2, 2022, and CM would not agree to stop the behaviour and GM later signed the document that they would stop this ridiculous behaviour. However, this behaviour continued. The landlords stated they have an obligation to all occupants of the park not to be harassed.

The tenant GM testified that they have always been good tenants. However, the misunderstanding could have been avoided with better communication. The tenants stated that the landlord was ignoring their concerns and the landlord never raised this issue with them.

The tenant GM testified that they have apologised both to the landlord and the occupants as after they heard the recording they realized that the behaviour was horrible, and they went to a doctor for assistance. GM stated that this is no longer an issue for them.

The landlord argued that this issue was raised with the tenants on several occasions and the last time was July 2, 2022, when they had a meeting. However, the tenants would just keep going in a circle and not accepting the occupants were entitled to have plants and entitled to access the backside of their site. The landlord stated that the tenants have been attempting to drag in other occupants of the park into this matter as they have had three complaints.

The tenant GM responded that they did speak to a couple other people in the park; however, this was for their support in cancelling the eviction notice. GM stated that they did not want to be involved in the matter as they were concerned about their own tenancy.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

How to end a tenancy is defined in Part 4 of the Act. Section 47(1) of the Act a landlord may end a tenancy by giving notice to end the tenancy.

I have considered all of the written and oral submissions submitted at this hearing, I find that the landlords have provided sufficient evidence to show that the tenants have:

- significantly interfered with or **unreasonably disturbed another occupant** or the landlord;
- seriously jeopardized the health, safety or **lawful right of another occupant** or the landlord

I find the tenants behaviour unreasonable, and the ongoing behaviour has unreasonably disturbed another occupant and interfered with their lawful rights to quiet enjoyment for the following reasons.

The tenant admitted in the video's that they have been fighting with the occupants for the past two years and that have at least on 12 occasions that year (at the time of the June 29, 2022) informed the occupants that they do not want their plants seen by them, they cannot attend to their plants unless after 9pm and before 9am even to water by hand or to pick a tomato or that they cannot access the backside of the home to do repairs without their permission.

While I accept the tenants can see the backside of the occupant's trailer; however, that is not uncommon when in an RV park as space is limited. However, clearly the occupants were on their site doing what they are entitled to do, such as growing plants for their own enjoyment or making repairs or improvement to their home. The occupants did not have to seek the permission of the tenants to do anything on their own site. At no time did the occupants approached the tenants. It was solely the tenants who were making unreasonable demands on the occupants and unreasonably disturbing them in the process which has been ongoing for the past two years.

Furthermore, even if by chance the occupants foot fell upon the grassy area on occasion as the space is limited behind their home, I find the tenants behaviour unreasonable, as it is reasonable to conclude that the occupants would need sufficient space to walk around their home. At no time was the occupants doing anything illegal or interfering with the tenants. Simply because the tenants could see them is not grounds for the tenants to be abusive and make unreasonable demands upon them. Any complaints the tenants had should have only been addressed with the landlord.

I do not accept the tenant GM' evidence that they were never informed by the landlord regarding the occupant's placement of the plants. This is not supported by the tenants' text message dated June 8, 2022, filed in evidence. The text message shows the

tenants wanted to meet with the landlords and the landlords requested to know what it was regarding. The tenant informed the landlord that they would let them know when they met; however, the tenants were informed if this is about the plants there is nothing more to discuss. The tenants indicate it is **not just** about the plants. Clearly by the conversation the tenants had to have known the landlord's position regarding the plants.

While I accept the tenant GM has been recently diagnose with an anxiety disorder and has accepted that their behaviour has been inappropriate towards the occupants; however, this has been ongoing for a considerable time. While I may be able to accept GM's poor behaviour was in part due to their condition, if this was a onetime event; however, this behaviour has been ongoing, repeatedly for an unreasonable amount of time and does not give GM the right to abuse, harass another occupant.

Further, that does not explain the behaviour of CM. If GM behaviour was unacceptable the co-tenant CM should have put a stop to it and not allow the occupants to be continued to be harassed. CM gave no explanation to their own poor behaviour during the course of time.

I find the Notice complies with section 45 of the Act and has been proven by the landlords and is valid and enforceable. Therefore, I dismiss the tenants' application to cancel the Notice.

In this case, the corrected effective date in the Notice is September 30, 2022. As I recognise the tenant GM has made some improvements to their behaviour and that having their home removed from the site is more challenging without the appropriate vehicle although their home can be towed. I have found it appropriate to extend the effective date to October 31, 2022, pursuant to section 59 of the Act on the following condition.

- The tenants are not to have any communication with the occupants whatsoever.

Should the tenants fail to comply with the above condition, with supporting proof of violation, the landlord is entitled to end the tenancy with 2 clear days to the tenant; however, this is only enforceable after September 30, 2022, the original effective date in the Notice. Should the tenants comply with the condition the tenancy will end on October 31, 2022.

Conclusion

The tenants' application to cancel the Notice is dismissed. The landlords are granted an order of possession.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 29, 2022

Residential Tenancy Branch