



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MT; CNC; O

Introduction

This Hearing was scheduled to hear the Tenant's application for an extension of time to dispute a *One Month Notice to End Tenancy for Cause* issued November 14, 2013 (the "Notice"); to cancel the Notice; and for "other" orders.

Both parties gave affirmed testimony at the Hearing.

It was determined that the Tenant served the Landlords with the Notice of Hearing documents and her documentary evidence (a copy of the Notice) by handing the documents to the Landlords. The Tenant was not certain of the date that she served the Landlords, but the female Landlord acknowledged receiving the documents sometime towards the end of November, 2013.

The Landlords provided documentary evidence to the Residential Tenancy Branch on January 6, 2013; however, this late evidence was not considered because the Landlords did not serve the Tenant with their documentary evidence. The Landlord was invited to provide oral testimony with respect to its contents.

The parties agreed that the Landlords served the Tenant with the Notice by handing the Notice to her, on November 14, 2013.

Preliminary Matters

The Tenant's Application for Dispute Resolution indicates that it is being made under the Manufactured Home Park Tenancy Act. I confirmed with the parties that the Tenant is renting a manufactured home from the Landlord and that the Landlord owns the manufactured home and pays pad rent to the manufactured home park. Therefore I find that this tenancy is under the Residential Tenancy Act, and the Tenant's application was amended accordingly.

On her Application for Dispute Resolution, the Tenant applied for an extension of time to dispute the Notice. Her Application for Dispute Resolution was filed with the Government Agent on November 15, 2013. The Act allows a tenant 10 days to file an application disputing a notice to end tenancy for cause. I find that the Tenant filed her Application within the time limit allowed under the Act and therefore her application for an extension of time is not required. This portion of her Application is dismissed.

The Tenant's Application for Dispute Resolution indicates that she is seeking "other" relief; however, she did not provide sufficient details in her Application with respect to what other relief she is seeking. When a party seeks "other" relief, the Application for

Dispute Resolution requires the Applicant to provide details in the “Details of Dispute Resolution” section. No details were provided. Therefore this portion of the Tenant’s application is dismissed.

At the outset of the Hearing, the Tenant stated that she had a hearing impairment. In addition, the Tenant’s young child was present during the Hearing and was making considerable noise. I found that the Tenant was able to understand me and the Landlord and to communicate well. I asked the Tenant if she could make arrangements for someone to care for her child while the Hearing was taking place. She stated that she was at the government agent’s office and that “everyone was busy”.

I declined to adjourn the Hearing for the following reasons:

1. The Tenant filed her Application on November 15, 2013, and had sufficient time to arrange for child care or an agent to attend on her behalf, but did not do so.
2. It would be prejudicial to the Landlord to adjourn this matter.

The Hearing continued. The young child was disruptive and noisy throughout the Hearing, causing all of the parties to raise their voices. However, I confirmed that the Tenant and the Landlord understood the proceedings and were able to give and hear submissions.

Issue to be Decided

Should the Notice be cancelled?

Background and Evidence

The Notice indicates the following reasons for ending the tenancy:

1. Tenant has allowed an unreasonable number of occupants in the unit.
2. 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
3. Tenant has engaged in illegal activity that has, or is likely to:
 - Damage the landlord’s property
 - Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
 - Jeopardize a lawful right or interest of another occupant or the landlord
4. Tenant has caused extraordinary damage to the unit or property.
5. Tenant has not done required repairs of damage to the unit.
6. Tenant has assigned or sublet the rental unit without landlord’s written consent.
7. Tenant knowingly gave false information to prospective tenant or purchaser of rental unit.

The Landlord (TC) gave the following affirmed testimony:

- TC stated that the Tenant's boyfriend stole her car on September 8, 2013, and wrecked it.
- She stated that the police were present at the rental unit on October 30, 31 and November 16, 2013, because the Tenant's boyfriend assaulted the Tenant. She said that an interior door was broken and holes were punched in the drywall.
- She testified that the Tenant's boyfriend is under a Court Order not to have contact with the Tenant or to come to the rental unit, but that he has not obeyed the Court Order.
- TC testified that the owner of the manufactured home park is pressuring her to evict the tenant because other occupants in the park are afraid and disturbed by her boyfriend's conduct.
- TC stated that she performed a walk-through at the rental unit "a week or so ago" and that she discovered that the hardwood floors are damaged.
- TC stated that the Tenant has not paid any rent for the month of January, but if she paid the rent right away TC would allow her to stay until the end of the month. Otherwise, TC stated that she wanted an Order of Possession effective immediately.

The Tenant (TS) gave the following affirmed testimony:

- TS stated that the Landlords used to be friends with the Tenant and her boyfriend. She testified that the Landlords' daughter gave her mother's car keys to the Tenant's boyfriend. The Tenant admitted that the car's axle was broken when the Tenant's boyfriend was driving it through some mud.
- TS submitted that the Landlords did not give her any written warning before issuing the Notice.
- TS stated that her boyfriend doesn't live at the rental unit, but that he stayed "once or twice". TS submitted that her boyfriend has a right to see their son and that he has a key so he can come and go when he wants to.
- TS stated that there were repairs that were required to the plumbing in the rental unit and that the Landlord removed the washing machine from the rental unit.
- TS testified that TC told her that TC's daughter was going to move into the rental unit. She submitted that the Landlords issued the Notice to avoid having to pay her compensation for moving their daughter into the rental unit.

Analysis

If a landlord seeks to end a tenancy for breach of a material term of the tenancy agreement, the landlord must give the tenant written notice and reasonable time to correct the breach. However, in this case the Landlords have not including that reason as one of the causes to end the tenancy.

One of the reasons that the Landlords seek to end the tenancy is because the Tenant's boyfriend has significantly interfered with or unreasonably disturbed the Landlords; seriously jeopardized the health or safety or lawful right of the Landlords; and put the Landlords' property at significant risk.

The Tenant submitted that the Notice was issued because the Landlords wished to avoid paying her compensation. I do not accept this submission. The Tenant does not deny that her boyfriend damaged the Landlord's car and the door. She does not deny that her boyfriend assaulted her and was arrested by the police. She does not deny that her boyfriend has a key to the rental unit. TS stated that he can come and go as he pleases. Therefore, I find that the Tenant's boyfriend is permitted on the property by the Tenant. I also find that the Tenant's boyfriend has significantly interfered with and unreasonably disturbed the Landlords and put the Landlords' property at serious risk. Having made this finding, it is not necessary to analyze the remaining reasons on the Notice. **I find that the Notice is a valid notice to end the tenancy and that the Tenant's application to cancel it is dismissed.**

Section 55(1) of the Act states:

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must** grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

Based on the testimony of the parties, I am satisfied that the Tenant received the Notice on November 14, 2013. I find that the effective date of the end of the tenancy was November 24, 2013 and that therefore the Landlords are entitled to an Order of Possession effective 2 days after service of the Order upon the Tenant. The Landlords are at liberty to wait to enforce the Order at the end of January, 2014, if they so desire.

Conclusion

The Tenant's application is dismissed without leave to re-apply.

I hereby provide the Landlords with an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be filed in the Supreme Court of British Columbia 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 *Residential Tenancy Act*.

Dated: January 10, 2014

Residential Tenancy Branch

