



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Notice to End Tenancy was personally served on the Tenant on November 20, 2013. Further I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on December 3, 2013. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order cancelling the Notice to End Tenancy dated November 20, 2013?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on October 6, 2013. The present rent is \$404 per month payable in advance on the first day of each month.

The landlord seeks to end the tenancy based on the misconduct of the tenant. In particular the landlord relies on an incident that took place on October 3, 2013 in which the tenant verbally abused another tenant.

The tenant acknowledged her language and verbal abuse was inappropriate although she submits her conduct was provoked by the other tenant. She also disputes the length of the verbal abuse and the intensity of it. Her agent testified that she was acting under stress caused by the death of her son (who was buried two days later). The agent for the tenant testified the tenant will be moving to northern British Columbia for work in the near future.

The key witness for the landlord provided a letter but she did not testify as she was ill. Also, the landlord was waiting for two police reports which had not yet been delivered by the RCMP. The landlord was also not aware of a letter sent by one of the witnesses to the Residential Tenancy Branch stating that she wished to withdraw her letter complaining of the applicant's conduct.

Grounds for Termination

The Notice to End Tenancy relies on section 40(1)(c), (d) and (g) of the *Manufactured Home Park Tenancy Act* which provides as follows::

Landlord's notice: cause

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, or

...

(d) the tenant or a person permitted in the manufactured home park by the tenant has engaged in illegal activity that

...

(ii) 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

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

(g) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

Settlement:

At the end of the hearing the parties reached a settlement and they asked that I record the settlement pursuant to section 58(2) on the Manufactured Home Park Tenancy Act as follows:

- a. The landlord withdraws the Notice to End Tenancy dated November 20, 2013 on a without prejudice basis.
- b. The parties agree the landlord retains the rights that should there be any further incidents of misconduct by the Tenant the landlord retains the right to serve a new Notice to End Tenancy raising the new misconduct and retaining the right to rely on the same incidents the landlord relies on in this Notice to End Tenancy.

As a result of the settlement I ordered that the Notice to End Tenancy dated November 20, 2013 be dismissed as withdrawn. The tenancy shall continue with the rights and obligations of the parties remaining unchanged.

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: January 03, 2014

Residential Tenancy Branch

