Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GEMINI VENTURES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, FFT

Introduction

On June 12, 2019, the Tenant applied for a Dispute Resolution proceeding seeking to cancel a One Month Notice to End Tenancy for Cause (the "Notice") pursuant to Section 40 of the *Manufactured Home Park Tenancy Act* (the "*Act*") and seeking recovery of the filing fee pursuant to Section 65 of the *Act*.

The Tenant attended the hearing. The Landlord attended the hearing with M.M. and M.F. attending as agents on behalf of the Landlord. All parties provided a solemn affirmation.

The Tenant confirmed that she served the Landlord the Notice of Hearing package by registered mail on June 20, 2019 and the Landlord confirmed receipt of this package. As such, and in accordance with Sections 81 and 82 of the *Act*, I am satisfied that the Landlord was served with the Tenant's Notice of Hearing package.

The Tenant advised that she served her evidence to the Landlord on July 17, 2019 by registered mail and the Landlord confirmed that he received this evidence. As this evidence was served in accordance with the timeframe requirements of Rule 3.14 of the Rules of Procedure, I have accepted the Tenant's evidence and will consider it when rendering this decision.

The Landlord advised that he served his evidence to the Tenant on July 29, 2019 by hand and the Tenant confirmed receipt of this evidence. Based on the undisputed testimony, I am satisfied that service of this evidence complied with the timeframe requirements of Rule 3.15 of the Rules of Procedure. As such, I have accepted this evidence and will consider it when rendering this decision. However, the Landlord also advised that he served an additional piece of evidence to the Tenant by email on August 5, 2019. While the Tenant acknowledged that she received this late evidence,

she advised that she was not prepared to respond to it. As such, this late evidence was excluded and not considered when rendering this decision. The Landlord was still permitted to provide testimony with respect to this evidence during the hearing though.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

I note that Section 48 of the *Act* requires that when a Tenant submits an Application for Dispute Resolution seeking to cancel a notice to end tenancy issued by a Landlord, I must consider if the Landlord is entitled to an Order of Possession if the Application is dismissed and the Landlord has issued a notice to end tenancy that complies with the *Act*.

Issue(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
- If the Tenant is unsuccessful in cancelling the Notice, is the Landlord entitled to an Order of Possession?
- Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord stated that the most current tenancy started on May 1, 2014 and rent was currently established at $373.10 per month, due on the first day of each month. However, the Tenant advised that a previous decision established that this most current tenancy agreement that the Landlord references is not valid (the relevant file number is listed on the first page of this decision). She also stated that it is her belief that rent is actually $380.38 per month.

The Landlord testified that the Notice was served by registered mail to the Tenant on June 1, 2019 and the reasons for the Notice being issued were because the “Tenant or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord, or seriously jeopardized the

health or safety or a lawful right or interest of the landlord or another occupant" and because of a "Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so." The effective date of the Notice was indicated as June 30, 2019.

The Landlord advised that the Tenant has been breaching the terms of the settlement agreement decision of August 13, 2018 (the relevant file number is listed on the first page of this decision). The terms of this settlement agreement are outlined below:

During the hearing, the parties agreed to settle this matter, on the following conditions:

1. The parties agree that they will treat each other respectfully.
2. The parties agree that the Tenant will abide by the park speed limit of 15 kmh.
3. The parties agree that the Tenant will not play loud music after 10 pm.
4. The parties agree that the Tenant will provide rent cheques to the on site manager in advance of when the rent is due.
5. The parties agree that the Tenant may not travel into areas marked as no trespass.
6. The Landlord withdraws his application in full as part of this mutually settled agreement.
7. The Tenant withdraws her Application to dispute the 1 Month Notice dated June 5, 2018.

The Landlord referenced an email dated July 29, 2019, multiple Tenant Complaint Forms, and letters from other tenants of the park that were submitted as documentary evidence to support his position. He stated that there were many instances of the Tenant harassing other tenants, calling the RCMP needlessly, preventing workers from maintaining the park property, speeding throughout the park, playing loud music late at night, intimidating other tenants, and generally displaying a similar pattern of harassment towards other tenants of the park. As well, the Landlord cited a warning notice to the Tenant dated February 25, 2019 cautioning the Tenant that she was engaging in behaviours that could jeopardize her tenancy.

M.F. referred to point one of the settlement agreement where the "parties agree that they will treat each other respectfully", and she cited evidence submitted where the Tenant had set up a Blockwatch social media group that contained content which is contradictory to this point of the settlement agreement. She pointed to content in this group discussion which demonstrated disrespect for the Landlord and contained inflammatory language and slanderous remarks that perpetuated contempt towards the Landlord.

The Tenant advised that it is her belief that she does not harass the other tenants. She stated that in response to the email dated July 29, 2019, this tenant did not ask her to leave but invited her over, and she did not realize that she was causing this tenant any grief. With respect to the letters of complaint about the property maintenance, she

stated that she was not provided notice that trees would be felled near her site, and she emailed the Landlord to ask questions about this work. While the work was shut down, she maintains that this was not due to her behavior as she did not harass the contractor but simply asked questions about the work.

She stated that she keeps to herself and does not talk to other tenants of the park, that she does not intimidate other tenants, that she did not call child services on one of the tenants of the park, that she does not take pictures of people in the park, that her property has been vandalized, that she is the one that is being harassed, and that there have even been attempts to run her over with vehicles by other tenants or the park manager. She submitted that she does not play loud music after 10 PM and puts on headphones after this time to listen to music. She advised that some of the documents that the Landlord relies on do not have dates or times of the complaints. Finally, she admitted to starting the Blockwatch social media group; however, she contends that the comments do not show disrespect or slander the Landlord but is an open forum to discuss dissatisfaction with some issues.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

In considering this matter, I have reviewed the Landlord's Notice to ensure that the Landlord has complied with the requirements as to the form and content of Section 45 of the *Act*. In reviewing this Notice, I am satisfied that the Notice meets all of the requirements of Section 45 and I find that it is a valid Notice.

I find it important to note that a Landlord may end a tenancy for cause pursuant to Section 40 of the *Act* if any of the reasons cited in the Notice are valid. Section 40 of the *Act* reads in part 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 on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

When examining the submissions before me, I find that there is much conflicting evidence between the parties; however, I find it important to note that there has been at least one other Dispute Resolution proceeding between the parties and a settlement agreement was reached on August 13, 2018 with respect to many of the same issues as was brought forth in this current hearing. While many of the Tenant's submissions in this hearing on these issues comprise mostly of denials and speculation, I have before me a substantial number of documents authored by different tenants of the park that support breaches of the settlement agreement. As this is the second such hearing for similar matters, I find this supports a pattern of alleged behaviours that could warrant service of a Notice.

Furthermore, I suspect that the General Occurrence Hardcopy police report that the Tenant submitted as documentary evidence was provided to support her allegations that she is the one being unfairly targeted and harassed; however, I find it important to note that the police officer indicated in her report that after her investigation, there was "No further concern" and that the file was concluded. From this, I find I can deduce that the Tenant's allegations were unfounded, and this causes me to question the credibility of the Tenant's submissions. Moreover, she advised that there have been multiple attempts by people around the park to run her over with their vehicles; however, if this were the case, I find it odd that there is no evidence that the Tenant ever raised this concern with the RCMP, given that this is such a serious allegation. This causes me to further doubt the authenticity of the Tenant's testimony. Finally, in reviewing the content of the Tenant's Blockwatch social media group, I find that the messaging contained within this group is consistent with the submissions and evidence made by the Landlord with respect to the Tenant's alleged behaviour and actions.

When reviewing the totality of the evidence before me, I find that the doubts created by the Tenant's testimony and evidence cause me to give less weight to the reliability of her submissions. Consequently, I prefer the Landlord's evidence and find it more persuasive on the whole. As such, when weighed on a balance of probabilities, I am satisfied that the Landlord has substantiated that the Tenant, or a person permitted on the property by the Tenant, has more likely than not engaged in actions or behaviour

that is significant, inappropriate, contrary to some points of the settlement agreement of August 13, 2018, and was justification to warrant the Notice being issued.

Ultimately, I dismiss the Tenant's Application, I uphold the Notice, and I find that the Landlord is entitled to an Order of Possession pursuant to Sections 45 and 48 of the *Act*, that takes effect on **August 31, 2019 at 1:00 PM** after service of this Order on the Tenant.

As the Tenant was unsuccessful in her application, I decline to award recovery of the filing fee for this Application.

Conclusion

I dismiss the Tenant's Application and uphold the Notice. I grant an Order of Possession to the Landlord effective **August 31, 2019 at 1:00 PM after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: August 7, 2019

Residential Tenancy Branch