



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: CNC

Introduction

This application was brought by the tenant seeking to have set aside a 30-day Notice to End Tenancy for cause served on November 28, 2008.

Issues to be decided

This application requires a decision on whether to uphold or set aside the Notice to End Tenancy.

Background and Evidence

This tenancy began on July 1, 2002 and rent is \$585 per month.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served following a number of incidents in which the tenant had kicked in and damaged his own door to gain entry and had mistaken other rental units for his own and attempted to gain entry.

In the latest incident, the landlord had encountered the tenant in a highly disoriented state in which he had spilled a milkshake on the elevator floor. He was dishevelled and the landlord noted cigarette burns on his shirt and on the carpet of his apartment raising a fear of accidental fire in the building. She stated that there were six children in the building under two years of age and she was concerned about the potential effects of their exposure to the tenant's behaviour.

The landlord noted that she had been attempting to show another apartment at the time and the incident appeared to be the cause of the prospective tenants declining the tenancy.

The landlord submitted a number of letters her attempts to assist the tenant and acknowledged that he was well liked by other tenants and her.

The tenant did not contest the facts but gave explanation that he suffers from blackouts, has been on a methadone maintenance program for heroin addiction for three months and is currently undergoing medical tests. He stated that his wife had passed away in October of 2007.

Analysis

I very much appreciated the tenant's candour in explaining and attempting to remediate the underlying causes of this behaviour. However, there is no question that the landlord acted responsibly and lawfully in issuing the notice to end tenancy.

I find that the tenant has seriously jeopardized the quiet enjoyment of other tenants, put other tenants at risk and caused damage to the landlord's property.

Accordingly, I declined to set the notice to end tenancy aside. On hearing that determination, as permitted under section 55(1) of the *Act*, the landlord requested an Order of Possession effective January 29, 2009.

Conclusion

I find that the landlord is entitled to the Order of Possession effective January 29, 2009 and such order, enforceable through the Supreme Court of British Columbia, accompanies the landlord's copy of this decision for service on the tenant.

January 14, 2009,

Dispute Resolution Officer