



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC & FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally.

All testimony was taken under affirmation.

Issues(s) to be Decided

The landlord has given a section 47 Notice to End Tenancy to the tenant as follows:

47(d) 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, or
- (iii) put the landlord's property at significant risk;

This is a request to have the Section 47 Notice to End Tenancy cancelled.

Decision and reasons

After hearing only from Council for the landlord it is my decision that I set aside the section 47 Notice to End Tenancy.

Council for the landlord stated that the applicant himself is not the problem, it is the applicants invited guests that have significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or put the landlord's property at significant risk.

However it is my decision that the evidence presented by Council for the landlord does not establish sufficient grounds to end this tenancy.

Some of the incidents provided by the landlords in support of the Notice to End Tenancy occurred in 2007, and, other than to add context, are too long past to be of much relevance to the Notice to End Tenancy.

Witness statements that claim that the police informed them that the tenants invited guests were male prostitutes and dangerous street people is hearsay evidence and is not supported by any direct evidence from the police.

The witness statement from the guard who claims he thought he heard one of the applicant's guests say, I have to get a gun, is not conclusive enough to be considered a threat.

Statements from other tenants in the building indicate that their fears are not based on any actual incidents that they have witnessed, but are based on things they think they may have seen and on a fear of things that may happen.

The applicant himself has admitted that at times some of his guests arrived looking unkempt and bedraggled, and on one occasion one of his guests arrived looking very poorly as he had been in an cycling/automobile accident; however although the look of



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the applicant's guests may be alarming to some of the other tenants, having guests who look unkempt and bedraggled is not reasonable grounds for ending a tenancy.

The language in section 47(d) of the Residential Tenancy Act is written very strongly, and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must've been **unreasonably** disturbed, or **significantly** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardize the health or safety or lawful right or interest of the landlord or another occupant, or put the landlords property at **significant** risk.

In this case it is my finding that the reasons given for ending the tenancy have not reached the level of **unreasonableness, significance, or seriousness** required by section 47(d) of the Residential Tenancy Act.

Conclusion

The section 47 Notice to End Tenancy is hereby set aside. I further Order, that the landlord bear the cost of the filing fee paid for this hearing. The tenant may therefore deduct \$50.00 from future rent payable to the landlord.

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: October 21, 2009.

Dispute Resolution Officer