

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to cancel a notice to end tenancy for cause.

Service of the hearing documents, by the Tenant to the Landlords, was done in accordance with section 89 of the *Act*, sent via registered mail. The Landlords confirmed receipt of the hearing documents.

Both the Landlords and the Tenant appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, in documentary form, and to cross exam each other.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Is the Tenant entitled to an Order under section 47 of the *Residential Tenancy Act*?

Background and Evidence

The undisputed facts are the month to month tenancy began on February 1, 2008 with the monthly rent payable on the first of each month in the amount of \$625.00. The Tenant paid a security deposit of \$312.50 on February 1, 2008.

The male Landlord testified that the Tenant's rent is paid directly to the Landlords by welfare and that the Landlords returned the payment for November 2009 because the Landlords have issued the Tenant a notice to end tenancy.

The Male Landlord testified that the rental unit consists of 10 separate units that are in a building designed similar to a motel with separate entrances accessible from the outside of the building. The Landlord stated that they work with other local agencies to house tenants who are dealing with either addiction or mental health issues and are traditionally hard to house.

The Male Landlord argued that since approximately July 2009 the Tenant has been associating with the type of people who put the rest of his tenants at risk. The Landlord testified that the Tenant's friends have been coming to the rental unit, looking for the Tenant and in some cases money, and that these friends are disturbing other tenants by knocking on doors looking for "the guy with one arm". The Landlord stated that the Tenant is an amputee and that these people are coming to look for him and do not know his name, which concerns the Landlord.

The Landlord testified that he believes that these people are looking for the Tenant to collect money and that by his association with these people; the Tenant is affecting the quiet enjoyment of other tenants in the building.

The Landlord spoke about an incidence which occurred in July 2009 whereby another tenant was up early, around 4:00 a.m., to go to work, and the Tenant chased this other tenant, yelling and screaming after him. The Landlord testified that this other tenant complained to the Landlord about the incident and that this tenant was fearful and afraid of the Tenant.

The Tenant argued that his friends do not disturb other tenants and that he never ran after this other tenant screaming and yelling.

The Tenant testified that he has no idea why the Landlords are saying this about him and that the Landlords know his history. The Tenant argued that he attends meetings and that people he knows at these meetings come back to his apartment for coffee and visits.

The Landlord stated that these "friends" of the Tenant are "intimidating" and that they are looking for money and most of these guests are arriving at the rental unit between 10:00 p.m. and 3:00 a.m. and are knocking on doors looking for the Tenant. The Landlord argued that he has three other tenants who are willing to testify however the landlord is fearful for these other tenant's safety and does not wish to have them testify in front of the Tenant and the Landlord feels that he cannot reveal their identity to the Tenant.

The Tenant argued that he is under stress and that he does remember getting into an argument with a female tenant at the end of the building. The Tenant confirmed that he does have people coming to visit him "day and night" and that once or twice they may have knocked on other doors.

The Tenant testified that the female Landlord told him that they have cameras in the parking lot and that the Landlord has seen the Tenant's company and told the Tenant that if this company continues to come over then the Tenant would be evicted.

The female Landlord testified and confirmed that she has had conversations with the Tenant to try and work with the Tenant to prevent these visitors from attending the rental unit and scaring the other tenants and to prevent the other tenants from being put at risk.

The male Landlord advised that that both the Landlords have been working with the Tenant's nurse and social worker and the Landlord read a letter that had been written in support of the work the Landlords have been doing with all of the tenants.

The male Landlord testified that they have tried to work with this Tenant since July 2009 however the situation has gotten to the point that this one Tenant is now putting the other nine at risk which has caused the Landlords to issue the Tenant a 1 Month Notice to End Tenancy for Cause. The Landlord testified that the 1 month Notice to End Tenancy issued September 28, 2009 was served personally to the Tenant, by the female Landlord, on September 28, 2009, at the rental unit. The Landlord has requested that an order be issued to cancel this tenancy effective December 31, 2009.

Analysis

The Landlords have provided testimony that they have been working with the Tenant, since July 2009, relating to the reasons for issuing the notice to end tenancy. The Landlord confirmed that the three reasons for issuing the notice are that the Tenant, or a person or persons permitted on the property by the Tenant, have significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health or safety of another occupant or Landlord, and have adversely affected the quiet enjoyment, security, safety, or well being of another occupant or the Landlord.

The Tenant's testimony confirmed that the Landlords have been speaking to him for some time about evicting him and yet the Tenant contends that he has no idea why the notice to end tenancy was issued to him.

In considering that the tenants in this rental unit are working with other agencies to be housed, and in the presence of the letter issued by the social worker, as read at the hearing by the male Landlord, on a balance of probabilities it is reasonable to conclude that the Tenant is associated with others who are or have been involved in activities that

are subjecting the remaining tenants to intimidation, fear, and jeopardizes the other tenant's health and safety. I also note that having people knock on doors after 10:00 p.m. and as late as 3:00 a.m. adversely affects the quiet enjoyment of the other tenants.

Based on the aforementioned I find the Landlords have proven the reasons for issuing the 1 Month Notice to End Tenancy and as provided under section 55(1) I hereby approve the Landlord's request for an Order of Possession .

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **December 31, 2009 at 1:00 p.m. after service on the Tenant.** This order must be served on the Tenant and may be filed in the Supreme Court and enforced as an order of that Court.

I HEREBY DISMISS the Tenant's application, without leave to reapply.

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: November 24, 2009.

Dispute Resolution Officer