



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. Both parties attended the hearing and had opportunity to be heard. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issue to be Decided

Does the landlord have grounds to end this tenancy?

Background and Evidence

The tenancy began in August 2010. On January 21, 2014, the landlord served the tenant with a notice to end tenancy for cause. The tenant disputed the notice in a timely manner.

The notice was served for the following reasons;

Tenant or a person permitted on the property by the tenant has:

- a. significantly interfered with or unreasonably disturbed another occupant or the landlord
- b. seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- c. put the landlord's property at significant risk

Tenant has engaged in illegal activity that has, or is likely to:

- a. adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

The landlord testified that the tenant has a steady stream of visitors that come and go at all hours of the day and night. The landlord filed a copy of a visitors log and the entries in the log support the verbal testimony of the landlord. Upon review of this log, I find that the tenant has multiple visitors at all times including the very early hours of the morning. The visitors list includes repeat visitors but also contains several other names.

The tenant testified that she does a lot of charity work for the poor and she provides meals and cigarettes to some of her visitors. The tenant also stated that she is on a limited income due to her disability and was unable to explain the discrepancy in her income and the cost involved in providing meals and cigarettes to the multiple visitors that she entertains.

The landlord stated that this kind of visitor activity is consistent with the criminal activity of drug dealing.

The landlord also filed a copy of his detailed written log which shows entries related to the activity in the rental unit #71 and interactions with the tenant's visitors. Entries indicate that during the period of November 06, 2013 to January 13, 2014:

1. The tenant's visitors include people who are wanted by the police.
2. One of the tenant's visitors was belligerent towards staff and kicked a mop bucket over.
3. The tenant left slanderous notes in a common area regarding another tenant.
4. On September 23, 2013 at 12:17 hours an entry comment states "*8 separate sign in for 71 There are more from earlier*"
5. Tenant gave her building entry card to a non resident of the building.
6. The police department visited the dispute rental unit to talk to a visitor who was inside unit 71
7. The police questioned the presence of a camera mounted on the hallway wall that belonged to the tenant.
8. Complaint from other resident regarding noise from Unit 71, all night long
9. Robbery in suite 71

On January 13, 2014, around 8:00pm, an incident took place which involved a stabbing and gun shots inside the rental unit 71.

The landlord filed digital evidence which consists of a video recording of what transpired in the common areas after the double shooting and stabbing. The landlord testified that shooter ran out of unit 71 and entered another suite and gave the firearm to the resident of this suite. The firearm was later recovered by police. There was a substantial amount of blood from the victims, in the hallways.

The landlord stated he has also received verbal complaints from other tenants who fear for their safety. The landlord testified that the tenant was given several verbal warnings and one warning letter on March 27, 2012. The landlord also stated that most of the warnings were given to the tenant by the previous manager who no longer works for the landlord.

The tenant denied having received any verbal warnings and filed into evidence, a letter of support from several residents of the building complex. The tenant denied anything to do with criminal activity and maintained that she does charity for her visitors. The tenant also stated that the victim of the stabbing was a friend of her visitor and that she did not know him.

Analysis:

In order to support the notice to end tenancy, the landlord must prove at least one of the reasons for the notice to end tenancy.

Section 47 of the *Residential Tenancy Act* states that a landlord may end a tenancy by giving notice to end the tenancy if the tenant has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property and/or the landlord.

Based on the documentary evidence and the verbal testimony of both parties, I find that the tenant has allowed visitors inside her unit that are wanted by the police and/or involved in criminal activity. The documentary evidence filed by the landlord fully supports his verbal testimony regarding the traffic to and from the tenant's unit at all hours of the day and night. The detailed written log provides information about criminal activity that supports the reasons for the notice to end tenancy.

Upon careful consideration of the evidence before me I find that the events of January 13, 2014 which involve a double shooting and stabbing are serious enough to cause the other occupants concern for their safety.

I further find that by providing daily log entries of activity in the rental complex, the landlord has proven that through the tenancy, the tenant has engaged in activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the property, and has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the Landlord.

Therefore I uphold the notice to end tenancy.

During the hearing, the landlord made a request under section 55 of the legislation for an order of possession. Under the provisions of section 55(1), upon the request of a landlord, I must issue an order of possession when I have upheld a notice to end tenancy. Accordingly, I so order.

The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The notice to end tenancy is upheld and the tenancy will end. I grant the landlord an order of possession effective two days after service on the tenant.

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: March 07, 2014

Residential Tenancy Branch

