



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order cancelling a notice to end tenancy for cause.

The hearing did not conclude on its first day and was adjourned for the purpose of providing evidence; the landlord received evidence from the tenant that was not received by me prior to the scheduled hearing. The landlord and the tenant both attended on both scheduled dates, and each gave affirmed testimony. The parties were given the opportunity to cross examine each other on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Should the notice to end tenancy be cancelled?

Background and Evidence

The landlord testified that this month-to-month tenancy began on April 1, 2009 and the tenant still resides in the rental unit. Rent is subsidized and the tenant's share is \$595.00 per month payable in advance on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$444.00 which is still held in trust by the landlord.

The landlord testified that the tenant has been unreasonably disturbing other occupants of the rental complex by knocking on doors asking for money. Also, the tenant has been seen smoking a strange substance in the car park, but the tenant has no car or any reason to be in the car parkade. The tenant has admitted smoking crack to the landlord and said he was going to rehab, but didn't. The landlord also testified that the tenant has told other tenants that he will get revenge from any tenants who write letters

supporting the landlord's claims. Tenants are afraid of him. The landlord also testified that he observed the tenant buying drugs in a car near the rental complex.

The landlord also testified that he has counselled the tenant and tried to help, and tried to get the tenant to go to a qualified counsellor, but the tenant has not done so. The landlord has received complaints from other tenants and has provided 8 letters from tenants who all complain about the tenant bothering them during the day and late at night or early morning hours knocking at their doors or hollering at them at their windows looking for money or cigarettes. One of the letters describes seeing the tenant on more than one occasion smoking crack in the car parkade, and the writer states that as a result of criminology studies at SFU, the writer is familiar with the appearance of a crack pipe and other drug paraphernalia.

The landlord issued a 1 Month Notice to End Tenancy for Cause on March 31, 2014 and a copy has been provided for this hearing. The notice is dated March 31, 2014 and contains an effective date of vacancy of April 30, 2014. The tenant was served with the notice personally by the landlord on March 31, 2014. The reasons for issuing the notice are:

- Tenant has engaged in illegal activity that has, or is likely to:
 - adversely affect the quiet enjoyment, security safety or physical well-being of another occupant or the landlord;
 - jeopardize a lawful right or interest of another occupant or the landlord.

The landlord also testified that a letter of reference from another tenant which has been provided in the tenant's evidence package is that of a tenant who told the landlord that she wrote the letter because the tenant asked her for a letter of reference because he was moving out.

The tenant testified that he hasn't done anything wrong. The tenant has also provided a letter for his defense in which he states that the manager of the building has threatened other tenants to write or sign letters or they would be evicted, and that the manager makes up lies and stories. The letter also states that the tenant has borrowed money from other tenants from time-to-time.

The tenant has also provided documentation containing 8 paragraphs with signatures under each and stated that they were signed by other tenants. They state that the tenant is a good neighbor and father.

Analysis

Where a tenant disputes a notice to end tenancy the onus is on the landlord to prove the validity of the notice which can include the reasons for issuing it.

In this case, I have reviewed the notice to end tenancy and find that it is in the approved form and contains information required by the *Residential Tenancy Act*. With respect to the reasons for issuing it, I have reviewed the letters of each party, and note there is no evidence by any of the tenants who wrote on behalf of the tenant that speaks to drug use or criminal activity. The notes only say that the tenant is a good neighbour and a good father. Further, the landlord testified that one of the tenants who wrote on behalf of the tenant did so because the tenant had asked for a letter of reference for a new rental unit. The letters provided by the landlord corroborate the landlord's testimony that the tenant has smoked crack cocaine in the parkade of the rental property on more than one occasion. One of the writers also states that he has knowledge of the appearance of a crack cocaine pipe and witnessed the tenant smoke it on more than one occasion. The tenant stated that the landlord has threatened eviction to tenants who write and that the landlord makes up stories and lies. Upon reviewing the evidence I find no truth in that statement at all. Further, the tenant was given an opportunity to question the landlord about his testimony and evidence regarding drug use and the tenant did not take that opportunity.

In the circumstances, I am satisfied that the landlord had cause to issue the notice to end tenancy for the reasons set out in the notice, and the tenant's application is hereby dismissed without leave to reapply.

Conclusion

For the reasons set out above, the tenant's application is hereby dismissed 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: June 24, 2014

