



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

matter regarding PHS COMMUNITY SERVICES SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC OPC

Introduction:

This was an application by the tenant to cancel a Notice to End the Tenancy for cause dated August 20, 2015 to be effective September 30, 2015. Both parties were present at the hearing and acknowledged receipt of each other's documents.

Issues: Is the tenant entitled to any relief?

Preliminary Issue:

Both parties attended the hearing but the tenant said he was in court and requested another time. It was agreed by both parties that the hearing would convene again at 1 p.m. The tenant noted he would need to be in court again at 1:30 p.m. At 1 p.m. the hearing was reconvened.

Background and Evidence:

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenancy commenced December 2014, rent is \$375 and a security deposit of \$187.50 was paid in 2014. The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

The tenant or a person permitted on the premises by him

- a) has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- b) has seriously jeopardized the health or safety or lawful right of another occupant or the landlord;

The tenant has engaged in illegal activity that has or is likely to:

- c) adversely affect the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord and that; and
- d) jeopardizes a lawful right or interest of another occupant or the landlord.

The landlord gave sworn testimony that this is new supportive housing since November 2014. On July 8, 2014, a local paper pointed to the spike in 911 calls related to this new building and the Police became involved. On July 27, 2015, this tenant was observed carrying into the building stolen computer items. On August 6, 2015, the Police came and met some residents who had suspected involvement but this tenant may not have been available that day. The landlord recounted how they wrote a letter to these residents, including this tenant, warning of the problems and consequences if they are committing crimes. On August 10, 2015, the landlord and a committee of many of the partners of this housing met with Police who advised that break and enters had doubled since the building was established and they advised that this

tenant was a suspect. On August 16, 2015, the landlord's surveillance cameras showed this tenant carrying in stolen items that were found later in his apartment. The landlord said the Police disclosed further evidence to them but it can't be released as it is an active investigation. The landlord requests an Order of Possession effective November 30, 2015 if the tenant is unsuccessful in this hearing. He promises that this tenant will not be evicted, however, until BC Housing has offered him a home(so he is not homeless) but cautions that the home does not necessarily have to be the tenant's choice. .

The tenant said the landlord's statements are not accurate. There was no search warrant and some charges were thrown out. He said there were charges but not in respect to the corner store but in respect to an industrial/commercial area nearby where he and another tenant just went in to look at something. He said there was a break and enter on the long weekend while he was in Alberta and a search of his unit and his girlfriend was there. He said that even if he is guilty, his actions are nothing in comparison to others who live in the building.

In evidence is the Notice to End Tenancy, the tenancy agreement, a criminal history for the tenant dating from 1997, log notes from staff of the landlord commenting on observations from surveillance cameras and Police actions with regards to the robberies at the corner store and computer store.

Analysis:

The Notice to End a Residential Tenancy is based on cause pursuant to section 47 of the Act. The Residential Tenancy Act permits a tenant to apply to have the Notice set aside where the tenant disputes.

The onus of proof on the balance of probabilities is on the landlord to prove they have good cause to end the tenancy. I find the preponderance of the evidence supports that the landlord has good cause to end this tenancy. I find the landlord's log from July 27, 2015 states that the Police came with a search warrant to search for stolen computers said to be worth \$20,000 in the tenant's room and another resident's room. This tenant was not in his room but his girlfriend who was there and another resident were arrested. I note that section 47 of the Act includes actions of the tenant *or a person permitted on the property* by him. I find also that reports of the video surveillance state that this tenant and another person who has been a persistent guest of this tenant were observed bringing in stolen items from the corner store and distributing them to the rooms and removing them again by about 3 p.m. The Police came and found empty boxes of the products in this tenant's room. The tenant's guest was barred from the building for he was sneaking in and letting others in through the alley door which puts other residents at risk.

I find the weight of the evidence is that the actions of the tenant and his guests or friends have significantly interfered with or unreasonably disturbed another occupant or the landlord and have seriously jeopardized the health or safety or lawful right of another occupant or the landlord. I find the constant Police presence and their meetings and interviews with respect to crimes are significantly disrupting the lives of the landlord and other residents. I also find the weight of the evidence is that the tenant has engaged in illegal activity that has or is likely to adversely affect the quiet enjoyment, security, safety or physical wellbeing of another occupant or the landlord. Although the tenant emphasized that he was not charged or found guilty in

respect to some of the crimes, I find the proof on a balance of probabilities (not proof beyond a reasonable doubt) is that the tenant or his guests have engaged in behaviour sufficiently suspicious to require police surveillance and searches that resulted in the finding of stolen property and the arrest of his girlfriend.

I therefore dismiss the tenant's application to cancel the Notice to End the Tenancy. Section 55(1)(a) provides that the arbitrator must grant an order of possession of the rental unit if the landlord makes an oral request for an order of possession at a hearing where an arbitrator has dismissed the tenant's application pursuant to section 47 and has upheld the Notice. The landlord has made this request at the hearing. As a result I grant the landlord an Order for Possession effective November 30, 2015 as requested. I note the landlord's promise not to evict the tenant until he has had an offer of housing from BC Housing so he will not be homeless.

Conclusion:

I grant the landlord an Order for Possession effective November 30, 2015. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement. I dismiss the tenant's application; no filing fee was involved.

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 14, 2015

Residential Tenancy Branch

