



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PHS Community Services Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC
OPC

Introduction

This hearing was scheduled in response to the tenant's application for cancellation of a notice to end tenancy for cause. The landlord's agent (the "landlord") attended and gave affirmed testimony. The landlord confirmed that he had been served with the tenant's application for dispute resolution and the notice of hearing (the "hearing package"). The tenant did not appear. During the hearing the landlord requested an order of possession in the event the tenant's application does not succeed.

Issue(s) to be Decided

Whether either party is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement ("tenant participation agreement") the tenancy began on November 26, 2014. Pursuant to section 47 of the Act which addresses **Landlord's notice: cause**, the landlord issued a 1 month notice to end tenancy dated August 20, 2015. The notice was personally served on that same date. A copy of the notice was submitted in evidence. The date shown on the notice by when the tenant must vacate the unit is September 30, 2015. Reasons identified on the notice in support of its issuance are as follows:

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

- seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- put the landlord's property at significant risk

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

- damage the landlord's property
- 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

Subsequently, the tenant filed an application to dispute the notice on August 28, 2015. As earlier noted, the tenant did not attend the hearing scheduled in response to his application, however, he continues to reside in the unit.

Analysis

Section 47 of the Act (**Landlord's notice: cause**) provides in part, as follows:

47(1) A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies:

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that

- (i) has caused or is likely to cause damage to the landlord's property,
- (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
- (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

Documentary evidence submitted by the landlord includes a summary of the nature of the rental accommodation and the tenant's conduct. This summary documents, in part:

Police have been in contact with me [landlord's agent] repeatedly about [the tenant] and the ongoing crimes [he is] committing in the community. Police came to [the unit address] to speak with [the tenant] and to advise him that he was under surveillance, but [the tenant] did not heed this warning and committed at least one subsequent break and enter into a commercial property. [The tenant] is currently facing charges for multiple B & Es in our immediate neighbourhood,

and police have been to [the unit address] to execute search warrants and have recovered stolen property from his suite.

Based on the documentary evidence, and the affirmed / undisputed testimony of the landlord, I find that the tenant has engaged in illegal activity that has “jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.”

Section 55 of the Act addresses **Order of possession for the landlord**, in part:

55(1) If a tenant makes an application for dispute resolution to dispute a landlord’s notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant’s application or upholds the landlord’s notice.

In consideration of all of the above, and in view of the tenant’s absence at the hearing scheduled in response to his application, as well as the landlord’s oral request for an order of possession, the tenant’s application is hereby dismissed, and I find that the landlord has established entitlement to an **order of possession**.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **November 30, 2015**. This order must be served on the tenant. 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.

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 03, 2015

Residential Tenancy Branch

