



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Lookout Emergency Aid Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with an application by the tenant seeking to have a One Month Notice to End Tenancy for Cause set aside. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to have the notice to end tenancy set aside?

Background and Evidence

The landlord gave the following testimony. The tenancy began on or about May 2010. Rent in the amount of \$375.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$175.00. The landlord stated that the tenant has become a major problem in the building. The landlord stated that the tenant has been observed by staff and other tenants; drug dealing, using illicit drugs, allowing prostitutes in the building, damaging the building, and threatening staff and other tenants.

The landlords stated that their society makes all attempts that go above and beyond to assist people with multiple challenges but feel that they have no other option than to seek an eviction. The landlord stated that the tenant is abusive and threatening when he has consumed alcohol or drugs. The landlord stated that the tenant has made many of the staff and tenants fearful of him. The landlord stated that they would only submit complaint letters on the basis that they remain anonymous as they fear retribution from the tenant.

The tenant's advocate made the following submissions. The advocate submits that none of the witness statements should be accepted as the copies provided to the tenant were unsigned or "blacked out". The advocate submits that the tenant cannot fairly

answer the claims against him if he doesn't know who they are from. The advocate further submits that the building is old and in disrepair and that the landlord has not provided sufficient evidence to show the tenant is responsible for any of the damage. The advocate submits that the landlords' evidence cannot be relied upon as there are differences in their testimony versus their documentation.

Analysis

Section 47 says a landlord may end a tenancy by giving notice to end the tenancy for a number of reasons. The landlord has issued the notice on the following underlined and highlighted sections.

Landlord's notice: cause

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

- (a) the tenant does not pay the security deposit or pet damage deposit within 30 days of the date it is required to be paid under the tenancy agreement;
- (b) the tenant is repeatedly late paying rent;
- (c) there are an unreasonable number of occupants in a rental unit;

(d) the tenant or a person permitted on the residential property by the tenant has

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or

(iii) put the landlord's property at significant risk;

(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;

(f) the tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to a rental unit or residential property;

(g) the tenant does not repair damage to the rental unit or other residential property, as required under section 32 (3) *[obligations to repair and maintain]*, within a reasonable time;

(h) the tenant

(i) has failed to comply with a material term, and

(ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

(i) the tenant purports to assign the tenancy agreement or sublet the rental unit without first obtaining the landlord's written consent as required by section 34 *[assignment and subletting]*;

When a landlord issues a notice to end tenancy they bear the burden of providing sufficient evidence to support the basis of issuing the notice. The majority of the landlords' case rests on the complaint letters submitted by who they allege are tenants and employees. However, the tenant was not given signed copies of these letters and was unsure on how to address them. The tenants advocate submits they cannot be considered for this hearing. I agree with the advocate.

The tenant is entitled to have full answer and defence of any allegation made against them as is required under the Natural Laws of Justice. The only other documentary evidence submitted by the landlord was some pictures of damage to parts of the building they allege were done by the tenant. The advocate submits there is no proof

the tenant caused any damage. The landlord has no other documentation to support that allegation.

Based on the insufficient evidence before me, the landlord has not satisfied me of any of the grounds to which they issued the notice to end tenancy, accordingly; the One Month Notice to End Tenancy for Cause dated December 8, 2015 is hereby set aside. The notice is of no effect or force.

Conclusion

The notice to end tenancy is set aside. The tenancy continues.

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: February 03, 2016

Residential Tenancy Branch

