



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, FF

Introduction

This was a hearing with respect to the tenant's application to cancel a one month Notice to End Tenancy for cause and to claim a monetary award. The hearing was conducted by conference call. The landlord attended the hearing with several witnesses. The tenant did not call in and did not participate in the hearing although this was the hearing of his application. The hearing continued for more than 15 minutes and the tenant did not appear before the hearing was concluded.

Issue(s) to be Decided

Should the Notice to End Tenancy dated November 30, 2016 be cancelled?
Is the landlord entitled to an order of possession pursuant to the Notice to End Tenancy?
Is the tenant entitled to a monetary order and if so, in what amount?

Background and Evidence

The rental unit is an apartment in Langley. The rental property is a mixed use building with commercial tenants in the lower portion of the building and residential tenants upstairs. The tenancy began in September, 2015. The monthly rent is \$1,050.00. The rental unit is a two bedroom apartment.

On November 30, 2016 the landlord personally served the tenant with a one month Notice to End Tenancy for cause. The Notice to End Tenancy was dated November 30, 2016 and it required the tenant to move out of the rental unit by December 31, 2016. The reason for the notice was that the tenant or a person permitted on the property by the 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 and that his illegal activity has jeopardized a lawful right or interest of another occupant or the landlord.

The landlord submitted documents to establish that five other occupants of the residential unit in the rental property and the two commercial tenants have complained

about the tenant's activities that include selling illicit drugs out of the rental unit and the rental property and receiving stolen goods in exchange for drugs. The RCMP have contacted the landlord about the activities of the tenant and have warned the commercial tenants who operate a women's fitness center and a day care center to be alert and avoid contact with the tenant.

The landlord testified that the tenant is engaged in selling and trading drugs out of his rental unit. There is a stream of homeless people coming to the rental property who leave goods and property in front of the building, in the hallway, the laundry room and in the parking lot. The landlord said that paramedics have come by ambulance to the rental property several times to deal with drug overdoses. The occupants and visitors have regularly found drug paraphernalia, particularly needles around the rental property. The landlord has received many reports from people who have observed the tenant dealing and trading drugs out of the rental unit. The landlord said the tenant has filled the rental unit with stolen goods that he has received and the police have attended looking for drugs, weapons and stolen property. The landlord testified that his other tenants, including his commercial tenants have threatened to move if the tenant is not evicted. The landlord testified that his property has been damaged. The windows in the rental unit have been broken by late night visitors throwing stones at the second floor windows of the rental unit to arouse the tenant and get his attention to let them into the building to transact business with the tenant.

The landlord's witness, Mr. S.T. manages a women's fitness center at the rental property. He testified that he has observed a constant traffic of visitors coming to the rental property. He has observed individuals meet with the tenant and engage in repeated exchanges lasting only moments and then depart. He said that these repetitive meetings occur throughout the day and he has no doubt that the tenant is selling drugs to the persons he meets with. Mr. S.T. said that he has been warned by RCMP officers about the tenant's activities. He testified that his clients, all women are afraid to approach and leave his facility in the early morning or at night when it is dark because of the unsavoury people lurking around the rental property.

Analysis

I accept the testimony of the landlord and his witness. The witness has observed the tenant conducting transactions on a daily basis for many months. Based on the testimony at the hearing and the documentary evidence submitted by the landlord including a letter from tenants as intended witnesses confirming their agreement with the landlord's submissions, I accept that the landlord has established that the tenant has and continues to engage in illegal criminal activity out of the rental unit that includes trafficking in illicit drugs and receiving stolen property and that there is ample cause to support the Notice to End Tenancy personally served upon the tenant. The tenant did not attend the hearing of his application and in the absence of an appearance by the tenant his application to cancel the Notice to End Tenancy and his claim for a monetary award is dismissed without leave to reapply.

Section 55 of the *Residential Tenancy Act* provides:

Order of possession for the landlord

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 to the landlord an order of possession of the rental unit if

- (a) the landlord's notice to end tenancy complies with section 52 [*form and content of notice to end tenancy*], and
- (b) the director, during the dispute resolution proceeding, dismisses the tenant's application or upholds the landlord's notice.

The Notice to End Tenancy was in the proper form and complies with all the requirements of section 52. The landlord has established that the tenant was properly served with the Notice to End Tenancy. The tenant's application has been dismissed without leave to reapply. The effective date of the Notice to End Tenancy has passed and the landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that court.

Conclusion

The tenant's application has been dismissed and the landlord has been granted an immediate order of possession

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: January 13, 2017

Residential Tenancy Branch