



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CANADIAN MENTAL HEALTH ASSOC. SHUSWAP-REVELSTOKE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC, LAT, LRE

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for cause. The tenant also applied for an order restricting the landlord's access to the rental unit and for authorization to change locks.

Both parties attended this hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties were represented by their agents

As both parties were in attendance I confirmed service of documents. The parties confirmed receipt of each other's evidence. I find that the parties were served with evidentiary materials in accordance with sections 88 and 89 of the *Act*.

Issue to be Decided

Does the landlord have grounds to end this tenancy? Is the tenant entitled to the other remedies he has applied for?

Background and Evidence

The tenancy started in September 2015. The rental unit is located in a building that houses a total of 28 rental units. The landlord provides subsidised housing to persons with physical and/or mental disabilities. The landlord requires that all tenants be actively involved with programs that are organised by the department of Interior Health.

The tenant was represented by his mother. She testified that the tenant is 22 years old and has been diagnosed with Schizophrenia. The tenant has been admitted to the

hospital on four different occasions and his medication has been changed numerous times.

The landlord stated that the tenant does not engage in the programs of the department of Interior Health on a regular basis and has created several noise disturbances that the other occupants of the building have complained about. The landlord also alleged that the tenant smokes inside the rental unit and does not follow the rules as laid out in Schedule 1 of the tenancy agreement.

On August 31, 2018, the landlord served the tenant with a 30 day notice to end tenancy for cause. The effective date of the notice is September 30, 2018. The tenant made application to dispute the notice in a timely manner.

The reasons for the notice were discussed at length. During the hearing, the parties engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Analysis

Pursuant to Section 63 of the *Residential Tenancy Act*, the Arbitrator may assist the parties settle their dispute and if the parties settle their dispute during the hearing, the settlement may be recorded in the form of a decision or an order.

During this hearing, the parties reached an agreement to settle their dispute. Specifically, it was agreed that the landlord would withdraw the notice to end tenancy and allow the tenancy to continue on the following terms:

Both parties agreed to the following terms:

1. The tenant agreed to refrain from smoking inside the rental unit and in the common areas of the landlord's property.
2. The tenant agreed to engage with a case worker from the department of Interior Health on a regular basis.
3. The tenant agreed to follow the rules as laid out in Schedule 1 of the Residential Tenancy Agreement. The landlord will provide a copy to the tenant.
4. The tenant agreed to cooperate with the landlord with regard to the monthly inspections of the rental unit. The landlord will provide proper 24 hour notice in keeping with s.29 of the *Residential Tenancy Act*
5. The landlord agreed to inform the tenant's mother when the tenant has an "episode" as soon as the landlord becomes aware of the situation.
6. The landlord agreed to allow the tenancy to continue as per the above terms.

7. Both parties confirmed that they understood and agreed to the terms of this agreement.

The tenant would be wise to ensure that no smoking whatsoever is carried out inside the rental unit and on the landlord's property and that he abides by the rules of the housing agreement. I find it timely to put the tenant on notice that, if he does not comply with the terms of this agreement and another notice to end tenancy is issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator for consideration.

The parties have reached a settled agreement, as recorded above. This agreement was reached in accordance with section 63 of the *Act*. The parties are bound by the terms of this agreement, as well as by the terms of their tenancy agreement and the *Act*. Should either party violate the terms of this settled agreement, the tenancy agreement or the *Act*, it is open to the other party to take steps under the *Act* to seek remedy.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue. The remainder of the tenant's application is dismissed.

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 25, 2018

Residential Tenancy Branch