



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of a One Month Notice to End Tenancy For Cause, pursuant to section 47 (the One Month Notice);

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the application and evidence on file.

The tenant's application was filed within the time period required under the Act.

Issues

Should the landlord's One Month Notice be cancelled? If not, is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began in November of 2017. The rental unit is an apartment in an eight unit building.

The landlord served the tenant with a One Month Notice on January 11, 2019 with an effective date of February 28, 2019. The One Month Notice was issued on the grounds that the tenants significantly interfered with or unreasonably disturbed another occupant or the landlord, put the landlord's property at significant risk and caused extraordinary damage to the property.

The landlord submits that on January 9, 2019 the police executed a search warrant the rental unit and arrested the tenants plus a visitor. The landlord submits the police found illegal drugs and cash in the apartment and the tenants have both been charged criminally for possession and trafficking of a controlled substance. The tenants have a court date upcoming in April 2019. The landlord testified that in executing the search warrant, the police kicked in the door of the unit next door as they had reason to believe the tenants were also using that unit to store illegal drugs. The landlord submitted a copy of the surveillance report describing the tenant K.R. had the keys to the unit next door and was observed bringing a duffle bag out of that unit. The landlord further testified that there is constant traffic to and from the tenants' rental unit and the traffic has picked up again as soon as the tenants were released from jail.

The tenants did not dispute the above events as described by the landlord but argued that they are innocent until proven guilty. The tenants testified that one of the charges against them have since been dropped and the other will likely be dropped as well. The tenants argued that the traffic at the rental property is a result of people purchasing smokes from the manager of the property.

Analysis

Section 47 of the Act contains provisions by which a landlord may end a tenancy for cause by giving notice to end tenancy. Pursuant to section 47(4) of the Act, a tenant may dispute a One Month Notice by making an application for dispute resolution within ten days after the date the tenant received the notice. If the tenant makes such an application, the onus shifts to the landlord to justify, on a balance of probabilities, the reasons set out in the One Month Notice.

Although the tenants may be innocent until proved guilty in a court of law, I find that the fact that the tenants have been charged with a criminal offence as a result of the search warrant executed in their rental unit, the tenants have put the landlord's property at significant risk by engaging in the alleged criminal activity of possession and trafficking of a controlled substance. I also find that on a balance of probabilities, the increased traffic is a result of the tenant's alleged criminal activity versus the tenant's argument of people purchasing smokes from the manager. I find this increased traffic of persons involved in criminal activity also puts the landlord's property at significant risk and unreasonably disturbs other occupants and the landlord.

I find that the landlord has provided sufficient evidence to justify that it had cause to issue the One Month Notice. The tenant's application to cancel the One Month Notice

is dismissed and the landlord is entitled to an Order of Possession pursuant to section 55 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 28, 2019

Residential Tenancy Branch