



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capilano Properties Management
Service and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. The participatory hearing was held on May 31, 2019. The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- cancellation of the Landlord's 1 Month Notice to End Tenancy for Cause pursuant to section 47 (the Notice); and,
- authorization to recover the filing fee for this application from the Landlord pursuant to section 72.

Both parties attended the hearing and provided testimony. The Tenant confirmed receipt of the Landlord's documentary evidence. The Tenant did not submit any documentary evidence. All parties were given a full opportunity to be heard, to present evidence and to make submissions.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

- Is the Tenant entitled to have the Notice cancelled?
 - If not, is the Landlord entitled to an Order of Possession?

Background and Evidence

In the hearing, the Tenant stated that he received the Notice on February 27, 2019. The Landlord issued the Notice for the following reasons:

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.*

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

Landlord testified that there have been several incidents over the past year or so where the Tenant has let “street workers” into his rental unit. The Landlord stated that multiple tenants have complained about the guests the Tenant brings onto the property, as these people appear to be high on drugs, and potentially there to do illegal things.

The Landlord pointed to 3 different breach letters. The first was dated June of 2017 and stated that the Tenant was in breach of a material term of his tenancy agreement because he had a guest that was creating a loud and unpleasant disturbance in the covered parking area. The second breach letter was dated September 2018 and states that the Tenant was in breach of his tenancy agreement for bringing women into the building who are “associated with the street”. The third breach letter is dated February 2019 and states the Tenant breached his tenancy agreement because there was a woman sleeping behind cars in the underground parking lot. The letter also stated that a woman snuck in the building and went directly to the Tenant’s door.

The Landlord provided some mostly unsigned and typed letters from different tenants expressing their concerns. The letters express that they have seen “hookers” in the building, sleeping in the hallways, and they were affiliated with the Tenant’s unit. Another letter states that there was a homeless woman found sleeping in the parkade behind cars, and she appeared to be high on drugs (Feb 26, 2019). Another letter states that the same woman was witnessed sneaking into the building and attending the Tenant’s rental unit, high on drugs.

The Tenant stated that he denies all of the allegations that he has had hookers or “street workers” as guests. The Tenant stated that he is being falsely accused of these things. The Tenant stated that he used to work at the Salvation Army and one of his

friends who he used to work with sometimes comes over, but the Tenant denies that anything illegal is going on. The Tenant stated he knows nothing about who was sleeping in the parkade, and only found out about this after getting the paperwork for this hearing. The Tenant stated that the girl who came and knocked on his door in February of 2019 did not come into his unit, and he knows nothing about any illegal activities that the Landlord is alleging.

Analysis

I turn to the Notice issued by the Landlord and I find it meets the form and content requirements under section 52 of the *Act*. I note the Tenant received the Notice on February 27, 2019.

After reviewing the Notice, I note that it lists multiple grounds for ending the tenancy, as above. However, it appears that much of the Landlord's testimony and evidence presented at the hearing relates to the Tenant's disruptive guests and the illegal activity. During the hearing, the Landlord did not speak directly to which material term of the Tenancy Agreement was violated. He only spoke about the Tenant's disruptive guests and the impact on other Tenants. As such, I find this is the issue I will focus on, and whether or not it has been sufficiently demonstrated that this issue gives the Landlord sufficient cause to end the tenancy under the following ground:

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.*

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I acknowledge that the Landlord has provided copies of complaint letters from other units, dating back a couple of years. I have reviewed these letters, and considered the Landlord's testimony. However, I find the Landlord has failed to demonstrate that the Tenant has engaged in an *illegal* activity, which is a material portion of the ground he selected on the Notice. I note the Tenant acknowledges that he knew one of the people who were the subject of one of the complaints from when he used to work at the Salvation Army. However, I do not find there is sufficient evidence that there was any illegal activity occurring when she visited.

Overall, I find the Landlord has not sufficiently demonstrated that there was illegal or criminal activity. As such, I find the Landlord has not sufficiently demonstrated that the tenancy ought to end, based on this issue. Furthermore, and as stated above, the Landlord did not specifically speak to or identify which material term of the tenancy agreement has been breached such that I could find it gives cause to end the tenancy. Without further evidence from the Landlord, I find there is insufficient evidence to support the reason to end the tenancy; therefore, the Tenant's application is successful and the Notice received by the Tenant on February 27, 2019, is cancelled. I order the tenancy to continue until ended in accordance with the *Act*.

As the Tenant was successful with his application, I grant him the recovery of the filing fee against the Landlord. The Tenant may deduct the amount of \$100.00 from 1 (one) future rent payment.

Conclusion

The Tenant's application is successful. The Notice is cancelled.

The Tenant may deduct the amount of \$100.00 from one (1) future rent payment.

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: May 31, 2019

Residential Tenancy Branch