



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CMHA SHUSWAP-REVELSTOKE/
SILA and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNE, FF

Introduction

This hearing dealt with an application by the tenant for an order to set aside a notice to end tenancy for end of employment. 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. The tenant represented himself and the landlord was 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?

Background and Evidence

The tenancy began 2011. The current landlord took over the management of the rental property in 2014. The landlord stated that there was no written tenancy agreement on file. The tenant agreed to enter into a new written tenancy agreement.

The landlord employed the tenant to carry out work in the building. Based on complaints and the results of an investigation, on August 12, 2019, the landlord terminated the employment of the tenant. Accommodation was not part of the employment agreement and therefore the tenant continued to live in the rental unit.

On the same day, August 12, 2019, the landlord served the tenant with a notice to end tenancy for cause. The reasons for the notice to end tenancy were also the reasons for the termination of the tenant's employment and stemmed from the alleged inappropriate behavior of the tenant towards other residents, most of whom were female.

The landlord agreed that a warning letter was not served on the tenant prior to the service of the notice to end tenancy and that the tenant did not engage in the alleged inappropriate behavior after he received the notice to end tenancy.

The landlord stated that the tenant did engage in conversations regarding the issue and that this was a breach of privacy. The tenant agreed to not to conduct conversations about the incidents that had occurred which led to the termination of his services. The tenant also agreed to hand over all keys in his possession to the landlord.

Analysis

Based on the testimony of both parties, I find that the landlord received letters of complaint from other residents and an investigation report regarding inappropriate behaviour on the part of the tenant towards other residents of the building, in his role as the landlord's employee. On August 12, 2019 the landlord terminated the tenant's employment and issued the notice to end tenancy on that same day. Both parties agreed that the tenant was not notified of any violations, complaints or problems prior to the notice to end tenancy.

Based on the evidence filed by the landlord, I find that she served the notice to end tenancy without notifying the tenant of the complaints thereby not giving the tenant an opportunity to correct the problem or take steps to remedy the situation.

I accept that the tenant may have behaved inappropriately with other residents in his role as the landlord's employee which was a reason for the termination of employment. Since the tenancy was not attached to employment, I find that the landlord is attempting to end the tenancy for the same reasons as she ended the employment of the tenant.

Based on the testimonies of both parties, I find that the tenant was not notified of the problem by the landlord, prior to the service of the notice to end tenancy and therefore the tenant did not have an opportunity to take steps to rectify the situation and resolve the problem. I further find that the landlord served the notice to end tenancy prior to issuing a warning letter. In addition, the landlord stated that the tenant has not engaged in the same behaviour since he was served the notice on August 12, 2019.

I therefore allow the tenant's application and set aside the landlord's notice to end tenancy dated August 12, 2019. As a result, the tenancy shall continue in accordance with its original terms.

The tenant would be wise to refrain from giving other occupants and the management company reason to complain about interactions between himself and other residents. I find it timely to put the tenant on notice that, if such behaviours were to occur again in the future and another notice to end tenancy issued, the record of these events would form part of the landlord's case should it again come before an Arbitrator, for consideration.

Since the tenant is successful in his application, he is entitled to the recovery of the filing fee of \$100.00.

Conclusion

The notice to end tenancy is set aside and the tenancy will continue.

The tenant may make a one-time deduction of \$100.00 from a future rent

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 24, 2019

Residential Tenancy Branch