



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MORE THAN A ROOF HOUSING AND KARIS PLACE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: CNC OPC FF

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47.

Service:

The Notice to End Tenancy is dated January 16, 2015 to be effective February 28, 2015 and the tenant confirmed it was served personally. The tenant /applicant gave evidence that they served the Application for Dispute Resolution by registered mail and the landlord agreed they received it. I find the documents were legally served for the purposes of this hearing.

Preliminary Issue: The landlord requested the landlord's name be amended to the legal name. The tenant did not object and the amendment was granted.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that there is sufficient cause to end the tenancy or is the tenant entitled to relief? Is the landlord entitled to an Order of Possession if the tenant is unsuccessful in the application?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in March 2014 and rent is \$375 a month as subsidized. The landlord served a Notice to End Tenancy for the following reasons:

- a) The tenant or a person permitted on the property by him has significantly interfered with or unreasonably disturbed another occupant or the landlord;
- b) The tenant or persons permitted on the property by him are seriously jeopardizing the health, welfare, safety or lawful right of another occupant or the landlord; and
- c) The tenant or guests is putting the landlord's property at significant risk.

The landlord provided evidence of a serious incidence on January 14, 2015 and agreed that this was the basis for the Notice to End Tenancy. The agreed facts are that the tenant who worked nearby gave his keys to a girlfriend who let herself into his unit. When he came home later, there was an altercation which the tenant said was a result of a psychotic break in his girlfriend when he said he was ending their relationship. At 11 p.m., a person alerted the housing staff that there was blood and Police had to be called concerning this tenant's unit. Staff attended and found the tenant in his boxer shorts covered in slashes of blood where he had been sliced and bitten. The female came out of the suite and continued arguing with the tenant. The Police and paramedics attended, the tenant was taken to hospital and came home about 2:50 a.m., the Police knocked on other tenants' doors and questioned them, and staff cleaned up an excessive amount of blood. The tenant's unit had blood stained surfaces that had to be cleaned up too.

The landlord said the tenant was in a Recovery Program and his housing was linked to it and the Agreements he signed with them. They also have a tenancy agreement with him including a Crime Free Addendum. They said that both agreements are signed by the tenant and provide that a breach is a serious violation and a cause to end the tenancy. They pointed out that by giving the keys to the girlfriend who had previously been banned from the building, the tenant was in breach of his agreement and put the landlord's property at significant risk. The tenant said the girlfriend had visited him before over the years but this time she had a psychotic break; he expected her to clean and make supper for him as she usually did so he saw no reason to deny her the keys.

The landlord said there was also alcohol in the tenant's unit which is a breach of his agreements. The tenant said the alcohol was locked up and was for his mother but the girlfriend must have used his keys to open the storage and then she threw cans of beer into the hall. He said he is on medication for an illness so does not consume alcohol. When his girlfriend stabbed him, he did run into the hall in his boxer shorts as he was escaping from her. He pointed to some evidence where a previous manager wrote on September 30, 2014 that he was a good tenant, a doctor wrote on January 27, 2015 that he was doing well on the management plan and a no contact order granted January 14, 2014 was issued concerning the girlfriend. The landlord said that the previous manager wrote the letter for another purpose and this incident occurred after the date of the letter. They also noted that although he might be following a management plan with his doctor, he had breached the Recovery agreement with the health authority by having a guest who placed him and others in the building at risk and was under the influence of alcohol or drugs. There was also beer in his unit on January 14, 2015. As a result on February 19, 2015, the health authority discharged him from the Addiction

Recovery Supportive Housing Program due to the multiple breaches of the Program Agreement. The landlord met with the tenant and gave him options of a mutual agreement to end tenancy or a 30 day Notice to End Tenancy and he chose the latter.

The landlord said the other residents in the building are traumatized by the events caused by the tenant's guest including the sight of all the blood, the violence and the disturbance by the Police; they are nervous about using common areas when he is present. The landlord requests an Order of Possession if the tenant is unsuccessful in the Application. They said they do not wish to postpone it after the end of tenancy date as the Program has another participant who has qualified to use the unit.

The tenant's advocate noted that the agreements do not supersede the Act and that the landlord must show cause according to section 47 of the Act to end the tenancy. He urged me to use discretion under section 55(3) to allow a later move out date.

Included with the evidence is the Notice to End Tenancy, the tenancy agreement with a signed Crime Free Housing addendum, a signed Agreement with a health authority, staff reports and letters in support of the tenant as detailed above.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

As discussed with the parties in the hearing, the onus is on the landlord to prove on a balance of probabilities that they have good cause to evict the tenant.

I find the evidence of the landlord credible in respect to the causes cited, namely, that he or **a person permitted on the property by him** has significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health and safety and lawful rights of other tenants or the landlord. I find the weight of the evidence, including the tenant's in the hearing corroborates the landlord's account of the serious incident. I find it credible that this incident involving violence, police late at night questioning tenants, a lot of blood and the tenant being taken to hospital with wounds significantly affected other residents who are vulnerable people and seriously interfered with their peaceful enjoyment. I find the presence of an irate guest who was violent significantly interfered with the peaceful enjoyment of the landlord also and put the landlord's property at significant risk.

While the tenant's advocate contended that the tenant should have been given a warning letter and another chance, I find the causes under section 47 (1) (d) of the Act

do not require a warning letter before enforcement. In any case, I find the tenant had signed two agreements (section 18 of the tenancy agreement) (Crime Free Housing Addendum) wherein he had agreed not to give keys to anyone else and that he is responsible for actions of his guests.

While the tenant submitted letters in support, I find the letter from the prior manager pre dated the incident on which the Notice was based and the letter from his doctor addresses the tenant's behaviour and it was the behaviour of his guest and their altercation that caused the serious incident which the doctor did not observe. Therefore, I give little weight to the letters in support. . Although the advocate urged use of discretion under section 55(3) to extend the date of the end of tenancy, I find the weight of the evidence does not support such a use of discretion. I find the tenant had time to arrange his affairs as he was advised on January 16, 2015 that his tenancy was ended as of February 28, 2015 and his presence in the building is making the other vulnerable residents afraid and uneasy. In addition, he has been discharged from the Addiction Recovery Supportive Housing Program to which his unit was allocated and which has another eligible client for March 1, 2015. I find the landlord entitled to an Order of Possession effective February 28, 2015.

For all of the above reasons, I dismiss the application of the tenant to cancel the Notice to End Tenancy. I find the tenancy is terminated on February 28, 2015.

Conclusion:

The Application of the Tenant to set aside the Notice to End Tenancy is dismissed. The tenancy is at an end on February 28, 2015. An Order of Possession is issued to the landlord effective February 28, 2015.

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 24, 2015

Residential Tenancy Branch

