

In the High Court of Fiji

At Suva

Civil Jurisdiction

Civil Action No. HBC 55 of 2021

Public Rental Board

Plaintiff

v

Shalini Devi Singh

Defendant

Counsel:	Ms P. Lal for the plaintiff Mr S. Prasad for the defendant
Date of hearing:	24 th May,2022
Date of Judgment:	11 th May,2023

Judgment

1. The plaintiff, in its summons filed on 23rd February,2021, seeks that the defendant show cause why she should not give vacant possession of Public Rental Board,(PRB) Block 2, Flat 5 at Kalabu Rental Estate, Uci Place, Kalabu, Suva situated on State Lease No. 297889, Lot 2 on DP 5465 in Naitasiri, (the property) to the plaintiff. The application is made under section 169 of the Land Transfer Act.

2. The plaintiff entered into a Tenancy Agreement, (TA) with the defendant to rent the property to her.
3. The plaintiff seeks to evict the defendant for the following reasons:
 - a. The defendant's combined family Weekly Gross Income (WGI) of \$392.50 does not qualify her to continue to occupy the property. The allowable income threshold is \$317 WGI.
 - b. The plaintiff has received numerous complaints that the defendant is always fighting with other tenants and her de facto partner resulting in the Police frequently visiting the property.
4. The defendant, in her affidavit in opposition states that she qualifies to stay in the property, as her husband passed away and she had no other means to care for her children. She was unemployed and has a medical condition. There were no arguments between her de facto partner and herself. Manjula Devi Tarai, (MD) another tenant made it very difficult for her and other tenants. She has made several complaints to PRB and the Police. Her combined income is \$127.00. The PRB approved her de facto partner staying with her. His statutory declaration was prepared when he had a tyre centre, before the pandemic. None of her children are working. Only her 12 year old younger son attends school.

The determination

5. The basis of eviction of the defendant is that her de facto partner (who resides with her) owns a business resulting in their combined household income exceeding the allowable income threshold of \$317WGI. The plaintiff claims that the defendant is not qualified to continue to occupy a PRB Flat on the basis of the statutory declarations made by the defendant and her de facto partner. She has breached the TA.
6. The defendant's statutory declaration of 24th January,2020, provides that she receives \$170.00 a month. Her partner's declaration states that he earns \$350.00 weekly. He owns vehicles bearing registration No. ES 433 and EP 126.

7. The defendant argues that her partner's statutory declaration was prepared when he had a tyre centre. His business is closed as stated in his statutory declaration of 19th April,2022.
8. The plaintiff has produced a certificate of reregistration of business, which provides that the defendant's partner's business was registered as at 19th February,2023.
9. The plaintiff also complains that the defendant has been fighting with another tenant MD. The animosity has reached a critical irreconcilable level causing nuisance and disturbances to other tenants. A neighbouring tenant, Kritika Prasad has also made complaints about her.
10. The defendant, in her affidavit in opposition accepts that she had differences with tenant MD and states that she made several complaints to the PRB and Police.
11. I note that on 25th September,2020, the plaintiff, was advised that the only option available was to relocate both MD and her away to PRB's Raiwai project flats

to resolve the issue of irreconcilable differences between (her and MD) that is causing nuisance and disturbances to other occupants..

*Furthermore, we must advise you that your Household income declared confirmed that your WGI of \$ 392.50 does not qualify you to continue occupying the Kalabu project flat and for this reason we have issued you with a **Notice to Vacate earlier.***

Your failure to respond will leave the Board with no other alternative but to terminate your tenancy and evict

12. The defendant did not accept the offer to be relocated.
13. Clause 38 provides that the PRB has power to remove and replace a tenant to another premise.
14. In my view, the defendant has not provided any valid reason for her refusal to be relocated.

15. The plaintiff, by letter of 6th October, 2020, terminated the defendant's tenancy, as she had breached clause 38 of the TA.
16. Clause 42 empowers the PRB to terminate a tenancy.
17. In my view, the plaintiff has established sufficient reasons for the termination of tenancy and eviction of the defendant.
18. In my judgment, the defendant has failed to show her right to remain in possession of the property under section 172 of the Land Transfer Act.
19. ***Final Orders***
 - a. I order the defendant to give vacant possession of Public Rental Board Block 2, Flat 5 at Kalabu Rental Estate, Uci Place, Kalabu, Suva to the plaintiff on or before 31st July, 2023.
 - b. I make no order as to costs.

A.L.B. Brito-Mutunayagam

A.L.B. Brito-Mutunayagam
JUDGE
11th May, 2023

