

11:13:29 [LeMass W] Good morning. Bill LeMass is my name, I'm the adjudicator in matter number 693 of 22 in the Brisbane District, which was heard at 9:30, and due to circumstances that I'll outline, I want to revisit this now.

11:13:54 [LeMass W] The people on the telephone representing the Department of Communities, could you please announce your full name and your position?

11:14:02 [Gray R] Russell Gray, Senior Housing Officer.

11:14:06 [Molloy] <unclear> Customer Service Manager.

11:14:08 [LeMass W] Thanks, Ms Molloy. Ms Molloy, you're not as distinct, so if you'd like, you need to come a little bit closer.

11:14:14 [Molloy] I'm sorry, is that better?

11:14:16 [LeMass W] That's better, yes. Now, the person in the tribunal room. Sir, your full name.

11:14:22 [Barker D] My name is David James Barker.

11:14:24 [LeMass W] Thank you very much Mr. Barker. Right, Mr. Barker, you and I are acquainted. We've been here before.

11:14:31 [LeMass W] OK, what we weren't aware of, and I've just been made aware of by my associates, is that you, in fact, sent in a change of arrangements with respect to contacting you.

11:14:45 [Barker D] Mmm

11:14:46 [LeMass W] And we didn't get it. We should have, but we get 30,000 notices a year, so it's not something that surprises me. And because of that, that's why my associate Chas called you and asked you to come back in.

11:15:02 [LeMass W] OK, so I'm just going to make sure that you're appraised of what is going on. Mr. Gray, Ms. Molloy, would you please just outline the circumstances of this matter?

11:15:20 [Gray R] Well, the circumstances of the matter are in relation to an overaccumulation of items, mainly recycled plastics inside and around the premises, including, it has extended out onto the Council footpath as well. There've been repeated attempts by the Department to engage Mr. Barker as well as through a support organisation called Communify to address this matter. It's been an ongoing issue that Mr. Barker has not engaged with.

11:16:02 [LeMass W] OK thank you, and to that end you've provided me with a large number of photographs, is that right?

11:16:12 [Molloy] Correct.

11:16:13 [LeMass W] OK.

11:16:14 [Gray R] Yep.

11:16:15 [LeMass W] And your last visit to the property was, when?

11:16:19 [Gray R] The 21st of April.

11:16:22 [LeMass] April. Ok, and your photographs that you've given me are 25th of January, 8th of February, 16th February, 23rd February. Who visited the property in April?

11:16:38 [Gray R] Aah, yeah, so we went out there last week to make contact with Mr. Barker-

11:16:43 [LeMass W] Who was that?

11:16:44 [Gray R] We dropped him a letter as well as- aah, that was myself and one of our Housing Officers <name unclear>.

11:16:52 [LeMass W] And who took the photographs of the 5th of April that you've shown to me?

11:16:57 [Gray R] On the 5th of April, that would have either been myself or my colleague Leisa.

11:17:06 [LeMass W] Ok. Righto. Ok. And you have told me that you've given breach notices?

11:17:15 [Gray R] Yeah.

11:17:17 [LeMass W] On the 2nd of February. And you've given a Notice to Leave on the 23rd of February, with the 9th of March?

11:17:25 [Gray R] Yeah. Correct.

11:17:27 [LeMass W] And you are seeking vacant possession of the property today, that's right, isn't it?

11:17:31 [Gray R] Yes, that's correct.

11:17:32 [LeMass W] OK, thank you.

11:17:35 [LeMass W] Right. Over to you, Mr. Barker, what would you like to say sir?

11:17:39 [Barker D] I am aware, sir, that this has come forth.

11:17:42 [LeMass W] Yes.

11:17:43 [Barker D] And I am sorry that it has come back again. In defense of my case, I will advise that the property has been cleaned up. The photographs on the 21st of April should have shown that, I don't know if they're in there.

11:18:03 [LeMass W] Well, they are, I'll show them to you. Not the 21st, I've got photographs here from the 5th of April. They are- my last photographs are the 5th of April.

11:18:17 [Barker D] Ok.

11:18:18 [Gray R] I don't think we forwarded these ones on unfortunately, but can I just confirm because we've also got concerns in regard to the internal condition of the

property, not just the external condition.

11:18:31 [LeMass W] Mmm.

11:18:32 [Gray R] The photos that I'm looking at from the 21st do show that the balcony was full of items, but also you could see through a back window from the driveway side, that there are items that are piled up to near ceiling height. There are still items that are scattered around the communal areas, which is a particular concern because we have been getting a lot of complaints from neighbours just in regard to their quiet enjoyment of the property. And also from out the front, we do acknowledge there has been a drastic downsizing of items, but there are still items piled away on the left side of the entry doorway as well as out the front of the courtyard gate, so it wasn't satisfactorily addressed on the 21st of April.

11:19:20 [LeMass W] Mmm. Right. Ok ,now, Mr. Barker, you keep going.

11:19:28 [Barker D] Ok, in regards to the items in the back of the property, I can categorically say that they are not mine. I did not put them there. I am not the only person in the tenants- in the complex that does this kind of thing.

11:19:42 [Barker D] Also, I cleaned up the yard as I expected it would be on the 2nd of September 2021, when they came around and called it acceptable. That is the standard I was looking for, I was aiming for, and if they changed their mind on that, I'm sorry, I will- I can do better I suppose if I have more time, but that's the standard I was aiming for.

11:20:11 [LeMass W] Well, Mr. Barker, just common knowledge, you've been here before, last year, and that stage you had a man with you I recall, a friend?

11:20:22 [Barker D] Ok, yeah.

11:20:23 [LeMass W] And he was assisting you, and not once, but twice, did we adjourn that to allow you to clean up, and that's not very long ago. And now, I've got photographs that it's happened again, right? I know it's happened again.

11:20:41 [Barker D] Mmm.

11:20:42 [LeMass W] You've got a problem. Don't apologise. There's no need to apologise to me. You've got a problem, I think it's a health problem right, but you live in community housing and it's unacceptable. They're asking you- they've been here an a number of occasions, and they're back here again. It's an enormous amount of administration for a government department. They want you to go.

11:21:05 [Barker D] I'm aware of that.

11:21:06 [LeMass W] Good. You're a very well-spoken, well-presented person, right? We didn't do that because no one's coming in .

11:21:21 [LeMass W] So, what do you want to do?

11:21:25 [Barker D] Well, the matter is in your hands of course, but if you- I have put down

11:21:33 [LeMass W] Mmm.

11:21:34 [Barker D] In the front yard now.

11:21:35 [LeMass W] Mmm.

11:21:36 [Barker D] Some mulch and leaves in the front there.

11:21:39 [LeMass W] Mmm.

11:21:40 [Barker D] To stop me from doing this again. Because if I do that, I can't put things in there, it will be unavailable. Because I want to grow grass in there, nothing's ever grown in there for six years since I've been there and it also causes erosion problems downstairs. So I put that in there last week when I finished cleaning up.

11:22:01 [LeMass W] Have you cleaned up inside?

11:22:03 [Barker D] I've started that.

11:22:04 [LeMass W] Started? Mr. Barker, don't take any offence, but you know about this, and you know the standard, and we've been here, this is now, I think, four or five times.

11:22:23 [LeMass W] This is an enormous administration level for your housing. You must have given some thought to where you can go. Where can you go?

11:22:37 [Barker D] I wasn't prepared for that kind of thing, because the issue of the inside hasn't come up before. They've only been concentrating on the outside part of it. Now I do know that the inside will need to be addressed, and I'm working on that now. I started after I finished the outside we do the inside. And the Community support worker is helping me with that.

11:23:02 [LeMass W] Well they say, they're not. Now I know this because this is what Mr. Gray told me this morning when I heard your matter. He said that they say that they're not engaged, that you won't talk to them.

11:23:13 [Barker D] Well, I saw him last week. I sent an email about it and he came over the same day.

11:23:24 [Barker D] He came over last Tuesday.

11:23:29 [LeMass W] Right. Mr. Gray, Ms. Molloy, what do you want to say? We've now heard from

Mr. Barker. I'd like to say first of all that QCAT did receive a change of contact form for him. It never made the file. He probably would be entitled to a reopening if he applied for one in those circumstances. I just wanted to catch what I'm saying with that as a precursor. Over to you, Mr. Gray. Ms. Molloy?

11:24:02 [Gray R] Look, I'd just like to say that we would like to proceed with the Termination Order and the Warrant of Possession. This is not something that we do lightly, our primary policy directive is to sustain tenancies where possible. As you've alluded to on several occasions, it's been an enormous amount of administration work that has been invested to try to sustain Mr. Barker's tenancy. Near-weekly visits for the last several months to inspect the outside condition.

11:24:33 [Gray R] Our concern is that if this matter- if we don't get these orders today that Mr. Barker- that the issue will just reemerge itself and we will have to pursue a QCAT- another QCAT hearing for him to then address the property condition, there's too- like I said, we do not take these orders lightly, when you work for our agency, you do so to house people, and this isn't the end of the road in terms of our engagement with Mr. Barker, we are prepared to assist him with what we can to find him some sort of sustainable long-term housing arrangement, but this is a pattern of behaviour that's been present for a long time now that is seriously impacting the neighbours, not just within the complex but private neighbours as well as other government agencies.

11:25:24 [Gray R] Brisbane City Council, sorry, I've got the date here, it was on the 5th of April, reached out to us because there were items on the footpath, they attempted to engage Mr. Barker to remove those items. We've been advised by the Council that they've had to go in and remove them, so this a serious ongoing issue that we've done our best to try and address with Mr. Barker and it's just, yeah, we're concerned that if we don't get these orders today, we'll just be back at square one again.

11:26:05 [LeMass W] What, if any, progress, Ms. Molloy, did you make in relation to alternate housing?

11:26:14 [Molloy ] Well, we can certainly offer Mr. Barker access to the Park, which was the accommodation that I spoke to you about-

11:26:23 [LeMass W] Mmm.

11:26:23 [Molloy ] earlier today where it does have those support agencies onsite, so he can get- he can access that- those services there.

11:26:32 [LeMass W] So, he would not be homeless, is what I'm getting at.

11:26:36 [Molloy] That's, yeah, absolutely.

11:26:38 [LeMass W] There's a solution.

11:26:39 [Molloy] <inaudible> Mr. Barker into homelessness, no. We would offer him a housing solution.

11:26:45 [LeMass W] Right. Ok, Mr. Barker, back to you sir.

11:26:49 [Barker D] OK, in response to that Brisbane City Council issue, I'm aware that a Council officer came to see me, I don't know if it was the 5th of April, it was around that time-

11:27:00 [LeMass W] Mmm.

11:27:00 [Barker D] -and asked me about things that were outside on the footpath, and he told me to move them in a few days and he'd come back and look at them and I did, I moved them. I am not aware of anybody coming back to move things themselves, nothing- I didn't notice any changes. The fact is there was nothing to move. But anyway, that's whatever, whatever that happens to be.

11:27:27 [Barker D] I think I might not say anything more for now.

11:27:46 [Barker D] I might say one more thing, sir, if I can.

11:27:47 [LeMass W] Mmm.

11:27:49 [Barker D] I have not brought anything new since the beginning of the year. I know it looks like a lot, but that was already from previous, and I've been trying to get it removed since the beginning of the year. Now the reason why it's taken so long is because I had COVID in January, and I had to stay away for two weeks because of that, and then we had the floods in February.

11:28:12 [LeMass W] Did it flood?

11:28:14 [Barker D] We didn't have flood, but we had a burst water main, and the Department of Housing will verify that. And so I had to wait until after all that sort of settled down before I could start moving things out in earnest. I was able to move a few things out, the photos will show that. In January and February things did start to slowly change, but after the beginning of March, you will see significant changes. I did the best I could as fast as I could. I was trying to avoid a QCAT

hearing but I was obviously not fast enough to do that.

11:28:45 [LeMass W] No.

11:28:46 [Barker D] But that's the way it goes. As I say, I have not brought anything new into that place since the beginning of the year, because I have alternative storage facilities now and it all goes into there, and that's where most of it went to.

11:29:13 [LeMass W] Ok.

11:29:15 [LeMass W] Mr. Barker

11:29:17 [Barker D] Mmm.

11:29:19 [LeMass W] I've got enormous sympathy for you. You've had this place, you've had it for six years. I know it is very great value, it's very cheap, how much do you pay every week?

11:29:27 [Barker D] 103, I believe.

11:29:31 [LeMass W] This is what troubled me so much last time. To rent that unit in the private market-

11:29:38 [Barker D] I know

11:29:38 [LeMass W] - would be three or four hundred dollars.

11:29:40 [Barker D] Probably.

11:29:42 [LeMass W] And you know the consequences of what you do, and there was an enormous effort made last time to preserve your tenancy and keep you in there.

11:29:51 [Barker D] Mmm.

11:29:52 [LeMass W] And the Department probably didn't like it, but they went along with it being taken out to a certain date, you didn't comply with that date, it was taken out to another date, and then you did, and by some miracle we kept you in there. And now you've done it again.

11:30:11 [LeMass W] It just beggars belief. With the loss, the downside to you, it's just terrible, and yet you get- all you gotta do- see this place could be clean in 24 hours you can get a truck and some men and some <inaudible> and boom, it's gone, we'll get it to the to the dump, gone. The whole place is clean. New lease of life.

11:30:32 [LeMass W] But you won't, I don't think you're able to. I don't think you're able to, to the extent that it's, it's a addiction, because you just bring more stuff back in, and despite having been here only less than six months ago, and going through all of that and then you're getting the notices again.

11:30:59 [LeMass W] Mr. Barker, I don't think you're going to be successful this morning. I think we need- I don't think I can keep you in. I think you've gotta go.

11:31:11 [Barker D] You're not prepared to try one more time?

11:31:13 [LeMass W] Well, you ask Mr. Gray, please.

11:31:16 [Barker D] What I mean is, because there's nothing new going in there, I don't have to do much. I've already the front yard .

11:31:23 [LeMass W] But you don't, I've got the photos here. It's terrible!

11:31:26 [Barker D] The front- you haven't seen the 21st of April.

11:31:28 [LeMass W] Ok.

11:31:30 [Barker D] Now, there might be one or two thing in there like a couple of broom and things and tools, there's a few tools there. So I can move them to the garage. But I will start moving things away from the balcony and the inside over the next week or two, if they want it.

11:31:49 [LeMass W] They want to. They want you out.

11:31:52 [Barker D] Well, that's up to them, and, you know, up to you. If you want to adjourn it for a few weeks, they can do their regular checks, there'll be no, nothing there, and I'll work with Communiy to get this place cleaned up, because the inside hasn't been looked at for a long time.

11:32:10 [LeMass W] Well, you just won't let them in.

11:32:12 [Barker D] No, it's not because I won't let them in, it's because they haven't asked.

11:32:20 [LeMass W] Ok.

11:32:25 [LeMass W] Mr. Gray, don't think I haven't heard you, I have heard you. Ms. Molloy, Mr. Gray, are you prepared to give Mr. Barker a 14-day adjournment to have the place completely clean?

11:32:41 [Gray R] Again, it's not something that- we're just concerned about I guess the amount of work that we have already invested into trying to sustain Mr. Barker's tenancy.

11:32:53 [eMass W] Mmm.

11:32:54 [Gray R] What we believe will be the best outcome for everyone in the long run is if we did move Mr. Barker into a property such as the Park where there are supports that he would be compelled to engage with. These supports could work on some of the underlying issues that have led themselves to this hoarding issue and then we could explore a social housing tenancy option again. So, as Ms. Molloy

has stated, we're not <inaudible> into a rough sleeping type arrangement, but we're just not confident that this adjournment would be fruitful, we've done these before and then it gets back to the stage that we have to take it to QCAT and that takes an enormous amount of administration work from our staff that could be dedicated to, you know, lots of other work that we've got on. So we really would push against this adjournment. That would be our issue.

11:33:50 [Molloy] The other issue too that I guess I would like to address is that we have provided Mr. Barker multiple occasions to engage with the Department to improve the property. We have offered a number of different mechanisms to him to be able to access support. We've also offered to get a skip as well, all of which he has declined. So, it's the lack of engagement.

11:34:15 [Molloy] If at any point, you know, Mr. Barker showed that, you know, he could sustain the cleaning of his property and that he would continue to step up, keep the property to a satisfactory level, then that is definitely something that we would entertain, but at this point, at every turn Mr. Barker has disengaged with not only the Department but the support services that we've also referred him to. So he hasn't demonstrated a commitment to maintain the property.

11:34:51 [LeMass W] Ok. Ms. Molloy, your answer to my question is no, you're will not- you're not agreeable to any extension or adjournment?

11:35:00 [Molloy] Correct.

11:35:01 [LeMass W] Mr. Gray?

11:35:03 [Gray R] That's, that's correct, yes.

11:35:06 [LeMass W] Thank you.

11:35:10 [LeMass W] Mr. Barker, it's not good enough for you to come in here at the last possible moment, even past the last possible moment - I opened at 9:30 this morning - and say, "I'm going to do it now". That's just- It's too late. It's definitely too late. Particularly given the history of the matter and the extent. Ok.

11:35:29 [LeMass W] So, Ms. Molloy has found accommodation for you.

11:35:38 [Barker D] Mmm.

11:35:39 [LeMass W] So, I'll leave the order as it was this morning. Your last day in the property will be the 10th day of May.

11:35:49 [LeMass W] And I wish you the best, I really do, but I can't, in the face of what's happened, I just can't keep you in there. If I had some engagement with Mr. Gray and Ms. Molloy then I would have listened but they've got to the end of their tether, and I've asked them three times. So that's what we're doing. So I'm pretty much in their hands.

11:36:13 [LeMass W] Ok, I have to issue a Warrant to the police at Indooroopilly to enter the premises on the 10th day of May and give possession to the Department of Communities.

11:36:24 [Barker D] Thank you.

11:36:26 [Gray R] Thank you.

11:36:27 [Molloy] Thank you.