



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes:

ET

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession based on his application for an early end to tenancy.

The Agent for the Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were personally served on the Tenant on January 08, 2009. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to end this tenancy early and to an Order of Possession on that basis.

Background and Evidence

The Landlord stated that this tenancy began on August 01, 2008; that he resides above the rental unit with his wife and young son; that he served the Tenant with a one month Notice to End Tenancy on December 31, 2008 which required the Tenant to vacate the rental unit on January 31, 2009; that the conditions of this tenancy are such that he wishes to end the tenancy earlier than that because he fears the Tenant presents a danger to his family and his property. The Landlord submitted the following evidence in support of his application to end the tenancy early:

- The Tenant has exhibited disruptive behaviour throughout this tenancy, which included the use of crude language, initiating highly personal conversations, excessive drinking, asking to borrow alcohol, speaking in strange accents, and leaving an excessive number of telephone messages
- On December 31, 2008 the Tenant came to his home and told him to keep his dog inside or she was going to get "rid of his dog" for him

- The Landlord contacted the police in regard to the threat to his dog, however the police did not pursue criminal charges in that matter
- On January 02, 2009 he served the Tenant with a Notice to End Tenancy for Unpaid Rent, at which time she told him that she would burn down his house before he evicted her
- The Landlord contacted the police in regard to the threat to damage his house, however the police did not pursue criminal charges in that matter
- On January 06, 2009 the Tenant repeatedly phoned his home and hung up; she played the music in her rental unit extremely loudly; and she yelled insults to the Landlord's wife through the heat vents
- The Landlord contacted the police in regard to the disturbance on January 06, 2009. The police attended and advised her to treat the Landlords respectfully
- The Tenant called the Landlord again at 0200 hours on January 07, 2009
- On January 10, 2009 at 1030 hours the Tenant yelled insults at the Landlord's wife when she arrived home from work, played her music excessively loudly, and created a noise disturbance by banging pots and pans
- Sometime during the last two weeks the Tenant barbecued beneath the Landlord's front deck. The Landlord stated that this deck is less than six feet high and that it is unsafe to barbecue in that space. The Tenant refused to comply with his request to turn off the barbecue
- The Landlord contacted the police in regard to the incident with the barbecue as he believed it constituted a fire hazard. The police attended, at which time the Tenant became irate and need to be restrained with handcuffs. While being restrained the Tenant continued to insult the Landlord and the attending police officers
- After a period of approximately 30 minutes the police released the Tenant from the handcuffs and advised her that they would pursue charges of mischief if she continued to bother the Landlord
- Sometime during the last week the Landlord smelled smoke and determined that it was coming from the Tenant's rental unit. He entered the rental unit due to his concerns for the safety of his property and determined the smell was emanating from a bedside table. He found a narrow area approximately 8" long that had been charred. He found several burned matches on the table and assumed that the table had recently been charred.

Analysis

After considering all of the oral and written evidence submitted I find that the Landlord has satisfied the legislative requirements to end this tenancy early. I find that the undisputed evidence provided by the Landlord regarding the behaviour of the Tenant is sufficient to convince me that the Tenant has significantly interfered with or unreasonably disturbed the Landlord, in contravention of section 56(2)(a)(i) and that she has put the Landlords' property at significant risk, in contravention of section 56(2)(a)(iii).

Given the behaviour of the Tenant, I find that it would be unreasonable and unfair to the Landlord of other occupants of the residential property to wait for a notice to end the tenancy under section 47 of the *Act* to take effect.

On the basis of these findings I grant the Landlord that is effective two days after it is served upon the Tenant.

Conclusion

The Landlord has been granted an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Date of Decision: January 12, 2009.