



Dispute Resolution Services

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

DECISION

Dispute Codes: ET

Introduction

This application was brought by landlord seeking an Order of Possession under section 56 of the *Act*. This section permits such applications in situations where it would be unreasonable for the landlord to wait for an order under section 47 of the *Act* which requires notice of a minimum of 30 days.

In this instance, the landlord had served notice to cause on January 20, 2008, but made subsequent application under section 56 of the *Act* on the grounds of continuing and escalating disturbance and perceived threat to the safety of the landlord and other tenants.

Despite being served with the Notice of Hearing served by posting on January 28, 2009, the tenant did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

Issue(s) to be Decided

This application requires a decision on whether the landlords are entitled to an Order of Possession and, if so, the effective date of such order.

Background and Evidence

This tenancy in a subsidized seniors building began September 1, 2007. Rent is \$355 per month and the landlord holds a security deposit of \$330 paid on August 27, 2007.

During the hearing, the landlord gave evidence that the Notice to End Tenancy had been served following a number of noise complaints about the tenant.

She also submitted two warning letters that had been sent to the tenant. One dated October 3, 2008 advised the tenant of a number of noise complaints about his rental unit and cautioned that further complaints would result in a Notice to End Tenancy.

A second letter sent October 8, 2008 noted that the tenant, on receiving the first letter, had retaliated by banging on his floor for most of the night.

After receiving the Notice to End Tenancy of January 20, 2009, the tenant, in an intoxicated state entered the common coffee room in the residence complaining of having received the notice. He made the comment that the building was made of wood and that he would have no problem burning it down, especially if the building manager – who he later referred to in profane terms - was home.

One witness, a retired corrections officer, said he had heard many threats in his career and was able to identify those that were clearly idle. However, he said he felt concern that the tenant's words had serious intent behind them and that the tenant might be capable of carrying out the threat.

Another tenant gave evidence that he later saw the tenant return to knock on the door of another tenant, an elderly woman, three or four times. He later saw the tenant dumping a pile of leaves in front of her door that he had brought in from outside.

Analysis

I find that this fact pattern of non compliance and retaliation establishes an ongoing and significant disturbance of the landlords and other tenants and, that their concern for personal safety is reasonable.

I further find that the landlords have proven on the balance of probabilities that their request for an early Order of Possession is justified.

Conclusion

Accordingly, the landlords' copy of this decision is accompanied by an Order of Possession, effective two days from service of it on the tenant. The Order is enforceable through the Supreme Court of British Columbia.

February 5, 2009

Dispute Resolution Officer