



Dispute Resolution Services

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

Decision

Dispute Codes: ET, OPC

Introduction

This hearing dealt with an application from the landlord for an early end to tenancy and an order of possession. The landlord's agent participated in the hearing and gave affirmed testimony. Despite being served in person on March 13, 2009 with the application for dispute resolution and notice of hearing, the tenant did not appear.

Issue to be Decided

- Whether the landlord is entitled to an early end to tenancy and an order of possession

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on February 1, 2009. Rent in the amount of \$400.00 is payable in advance on the first day of each month. Arising from the landlord's concerns about the conduct and behaviour of the tenant on several different occasions during the short tenancy, the landlord issued a 1 month notice to end tenancy for cause. Reasons identified in the notice for its issuance are as follows:

Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord

- put the landlord's property at significant risk

Tenant has engaged in illegal activity that has, or is likely to:

- adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord
- jeopardize a lawful right or interest of another occupant or the landlord

Evidence submitted by the landlord included a copy of the 1 month notice dated March 8, 2009 which was served in person on the tenant on that same date. Subsequent to issuance of the notice, further incidents involving aggressive, threatening and dangerous behaviour on the part of the tenant led to this application for an early end to tenancy and an order of possession effective before the date shown on the notice which is April 8, 2009.

The landlord's agent testified as to three separate occasions when police were called as a result of the tenant's physically aggressive and verbally threatening behaviour. At another time the fire department was called in response to smoke in the unit from food left to burn on the stove top; on that occasion as well as at other times, the tenant appeared to be incapacitated in part, at least, as a result of having consumed excessive amounts of alcohol and / or other drugs. The landlord's agent also noted that, contrary to the provision in the tenancy agreement which prohibits smoking in the unit, the tenant has been observed smoking in the unit.

Analysis

Based on the documentary evidence and undisputed testimony of the landlord's agent, I find that the tenant was served with a 1 month notice to end tenancy for cause. The tenant did not dispute the notice within 10 days after receiving it by filing an application for dispute resolution. The tenant is therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the

notice which was April 8, 2009. Accordingly, I find that the landlord is entitled to an order of possession.

Section 56 of the Act speaks to an **Application for order ending tenancy early**, and provides, in part:

56(1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

Once again, having considered the documentary evidence and the undisputed testimony of the landlord's agent, I am satisfied that the landlord has met the requirements set out in section 56(2) of the Act in regard to issuance of an order bringing an early end to tenancy. Accordingly, I grant the landlord an early end to tenancy and an order of possession effective not later than 1:00 p.m., Saturday, March 21, 2009.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than 1:00 p.m., Saturday, March 21, 2009. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

DATE: March 20, 2009

Dispute Resolution Officer