



Dispute Resolution Services

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

Decision

Dispute Codes: ET, FF

Introduction

This matter dealt with an application by the Landlord for an Order ending the tenancy earlier than it would end if the Landlord had to wait for a Notice to End Tenancy for Cause to take effect.

The Landlord said the Tenant was served in person on April 2, 2009 with a copy of the Application and Notice of Hearing in this matter. I find pursuant to s. 89 of the Act that the Tenant was properly served with the Landlord's hearing package and the hearing proceeded in the Tenant's absence.

Issue(s) to be Decided

1. Is the Landlord entitled to end the tenancy?

Background and Evidence

The Landlord claims this tenancy started at least 2 years ago. The Tenant occupies one of three rental units above a commercial property. The Landlord claimed that in mid-January, 2009, the Landlord received a complaint from another tenant in the rental property that the Tenant was making an excessive amount of noise. In particular, the Tenant was playing loud music, banging on his door, and yelling at the tenant next door. The Landlord sent the Tenant a letter dated January 27, 2009 warning him that if there were continued complaints about noise from his unit, the Landlord would end his tenancy.

The Landlord said the Tenant continued to bang on the wall of the neighboring unit and to yell on 3 further occasions. The Landlord said on March 13, 2009, the Tenant turned up his music, pounded on the wall and shouted "If you get me evicted, I'll f**cking whack you, I'll kill you, I'll snap your f**cking neck." As a result of the Tenant's threats, the neighboring tenant called the police and left the rental unit for the night. According to a police report provided by the Landlord, the RMCP attended the Tenant's rental unit to investigate the complaint. According to the Landlord, the Tenant continued to make

noise on March 19 and 20, 2009. On March 20, 2009, however, the Tenant apparently shouted at the neighboring tenant, "If you think my stereo was scary, wait until I get my revenge." As a result of that threat, the neighboring tenant contacted the police again. The Landlord said the neighboring tenant now fears for her safety.

Analysis

Section 56 of the Act permits a Landlord to end a tenancy earlier than she would have to wait if required to wait for the notice period for a Notice to End Tenancy for Cause to take effect. Section 56 sets out the grounds a Landlord must satisfy in order to end a tenancy early.

Based on the undisputed evidence of the Landlord, I find there is sufficient evidence to conclude that the Tenant has significantly interfered with or unreasonably disturbed another occupant of the residential property. Given the threats to do violence on the other occupant, I also find that it would be unfair to wait for a Notice to End Tenancy under s. 47 to take effect. The Landlord requested and I find she is entitled under s. 56 of the Act to an Order of Possession to take effect 48 hours after service of it on the Tenant.

Conclusion

An Order of Possession effective 48 hours after service of it on the Tenant has been issued to the Landlord and a copy of it must be served on the Tenant. The Order of Possession may be enforced in the Supreme Court of British Columbia.