



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET, FF

Introduction

This hearing was scheduled to hear the landlord's application for an early end to the tenancy. The landlord also requested recovery of the filing fee paid for this application. The tenants did not appear at the hearing. The landlord testified that one of the co-tenants was personally served with notification of the hearing and the landlord's evidence on April 29, 2009 and an adult occupant of the rental unit was also served with notification of the hearing and the landlord's evidence the same day. I was satisfied that the landlord served the tenants with notification of today's hearing in accordance with the requirements of section 89(2) of the Act and the hearing proceeded without the tenants present.

Issues(s) to be Decided

Has the landlord established that the tenancy should end earlier than a tenancy would end if a Notice to End Tenancy for Cause had been given under the Act?

Background and Evidence

The landlord testified that the tenants moved in to the rental unit on March 20 or 21, 2009. The rental unit is occupied by one of the co-tenants identified on the tenancy application, the co-tenant's minor child and another adult occupant. The rental unit consists of the two upper floors of the residential property. There is also a basement suite in the residential property that the landlord is in the process of renting out.

The landlord is applying for an early end to the tenancy on the grounds that the tenant or a person permitted on the property is engaged in illegal activity that is likely to jeopardize the safety of another occupant, or the landlord's lawful interest or right, or

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cause damage to the landlord's property. The landlord is also highly concerned about the safety of his neighbours as the neighbourhood is family oriented with many children living nearby. The landlord described how the Vancouver Police had informed the landlord that the police had raided the rental unit on April 9, 2009 and found drugs and a weapon. The police also informed the landlord that the tenant, or a person permitted on the property by the tenant, is affiliated with gangs and very dangerous people.

The landlord testified that the tenant had verbally agreed to vacate the rental unit on the weekend of May 3 and 4, 2009; however, when the landlord tried to meet with the tenant to sign a Mutual Agreement to End Tenancy the tenant avoided contact with the landlord. The landlord is unsure as to whether the tenant in fact vacated the rental unit as some personal property can be seen outside of the rental unit. In the event the tenant and the occupant have not vacated the rental unit, the landlord is seeking an early end to the tenancy and an Order of Possession.

Analysis

Section 56 of the Act provides, in part, that a landlord may request an early end to a tenancy and request an Order of Possession in certain circumstances where the tenant, or a person permitted on the property by the tenant has:

- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;
- (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

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(C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

In addition to the above criteria, it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect.

The burden to prove that the tenant, or person the tenant has permitted on the property, has engaged in activity that meets the above criteria is upon the landlord. The burden of proof is based on the balance of probabilities and is not the same as the criminal standard. Meeting the burden of proof on the balance of probabilities means the landlord has established that it is more than 50% likely that the events occurred as described by the landlord and that the activity is illegal.

I found the landlord's testimony to be very credible. Based on the undisputed testimony of the landlord, I find that the landlord has established that the tenant, or a person permitted on the property by the tenant, has engaged in illegal activity that is likely to jeopardize the landlord's property and the interest or right of the landlord or the safety of another occupant of the property. Given the serious nature of the claims being made against the tenant, I find it is unreasonable to wait until the effective date on a Notice to End Tenancy for Cause and I grant the landlord's request to end the tenancy early. I also grant the landlord's request for an Order of Possession.

It is my order that the tenancy ends effective two days after the landlord serves the Order of Possession upon the tenants. The tenants are required to vacate the rental unit two days after the landlord serves the Order of Possession upon the tenants.



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The Order of Possession may be enforced by filing it in The Supreme Court of British Columbia and enforced as an Order of that court.

As the landlord was successful with this application I also grant the landlord's request to recover the filing fee from the tenants. I order the tenants to pay the landlord \$50.00 and I provide the landlord with a Monetary Order to enforce payment. The landlord must serve the Monetary Order upon the tenant and may file it in Provincial Court (Small Claims) to enforce as an Order of that court.

Conclusion

The landlord's request for an early end to tenancy is granted. The landlord is provided an Order of Possession effective two days after service of the Order upon the tenants. The tenancy ends two days after service of the Order of Possession upon the tenants.

The landlord is also provided with a Monetary Order in the amount of \$50.00 in order to recover the filing fee paid for this application from the tenants.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 06, 2009.

Dispute Resolution Officer