

DECISION

Dispute Codes:

ET

Introduction

This is the Landlord's application for an early end to tenancy and Order of Possession.

I reviewed the evidence provided prior to the Hearing. All parties gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord gave the following testimony:

There have been on-going issues with respect to this tenancy, which have escalated into harassment and name calling by the Tenant. The tenant below the Tenant moved out of her rental unit on August 31, 2009, because of the noise, arguments, fights and loud music engendered by the Tenant and other occupants. A copy of a letter dated July 17, 2009, written by the other tenant, was entered into evidence.

On May 28, 2009, another tenant wrote a letter of complaint, which he subsequently denied writing. On July 20, 2009, the tenant wrote another letter explaining that he denied writing the letter because he was afraid of vengeful recriminations by the Tenant. A copy of the letter dated July 20, 2009, was provided into evidence. The tenant writes that he did in fact write the May 28th letter. The reasons for complaint included: the Tenant was playing music so loud that he could feel it in the adjoining wall; there are teenagers smoking marijuana on the balcony in full view of other children; there are up to nine people living in the Tenant's rental unit, and it is too many.

The Landlord has been going to the rental property in the evenings, with his son, to show the vacant rental unit. He has been waiting until the evenings because he is not comfortable going on his own and waits for his son to be finished work. Although he

has shown the rental unit, which is below the Tenant's rental unit, to several prospective tenants, no one has applied to rent it because of the actions of the Tenant and the occupants.

The Tenant attempted to run the Landlord's wife down with her vehicle. Police were called and are investigating.

The Witness ML gave the following testimony:

On September 2, 2009, the Landlord and the Witness went to the rental property. The Witness was standing in the Tenant's carport, in front of some garbage cans. The car port is 18 feet wide. The Tenant came home and drove up the driveway, seeing the Witness. The Tenant steered her vehicle directly at the Witness. The Witness froze. The Tenant got out of the car, went into the rental unit and slammed the door. The Witness believes the Tenant is taunting them and tries to pick fights.

The Witness DL gave the following testimony:

On August 29, 2009, the Witness and the Landlord went to the rental property to clean up the yard. When they pulled into the driveway, the Tenant started screaming and yelling at them. They called the police. 5 or 10 minutes later, the Tenant drove away. 4 police officers attended. While the police were there, a car drove up and a woman got out. The woman was upset because her son was a foster child of the Tenant's. The woman was wondering if her son was in trouble with the police and was crying.

The Tenant gave the following testimony:

The Tenant believes the Landlord is trying to find a reason to get the Tenant out of the rental unit early.

The Tenant did not try to run down the Landlord's wife. She heard nothing about the incident until she was served with the Notice of Hearing documents. She was only driving up the driveway to park her car, where she usually does. The driveway is on a

steep incline, so she has to put the car in first gear to get up the driveway. The Tenant was not trying to intimidate the Landlord's wife, and only looked at her because she was standing in the driveway.

The Landlord is making it difficult for her daughter to play in the yard, because he is erecting piles of dirt in the back yard.

The Landlord has been at the rental property almost daily since May 31, 2009.

The Tenant's foster son's mother and the Landlord were laughing at the Tenant. The woman was not crying and did not appear to be distressed.

Analysis

Based on the documentary evidence and testimony of the parties, I find that the Tenant, or a person permitted on the rental property by the Tenant, has significantly interfered with or unreasonably disturbed another occupant or the Landlord, as follows:

1. The tenant below the Tenant gave the Landlord her notice to vacate because of the fighting, arguing and loud music constantly coming from the Tenant's residence;
2. Another tenant was intimidated by the Tenant, but also wrote about loud music coming from the Tenant's suite, smoking marijuana in front of neighbourhood children, and overcrowding;
3. While I do not accept that the Tenant was attempting to run over the Landlord's wife, I do find that the Tenant was attempting to intimidate the Landlord's wife on September 2, 2009.

For these reasons, pursuant to Section 56(2)(a)(i) of the Act, the Landlord is entitled to an Order of Possession and I make that Order.

Conclusion

I hereby grant the Landlord an Order of Possession effective two days from service on the Tenant. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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: September 8, 2009