



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET, FF, SS

Introduction

This hearing was scheduled in response to the landlords' application for Dispute Resolution, in which the landlord has applied for an Order of Possession on an Early End to Tenancy and to recover the filing fee for the cost of the application from the tenants. The landlord also requests an Order for Substitute Service to serve the hearing documents on the tenant's social worker.

The landlord states that the application and Notice of hearing was given to the tenants in person on September 18, 2009 at 12.38 pm.

The landlords' Property Manager and Agent appeared and the tenants social worker appeared, as she was also served Notice of this hearing as a co-signer of the tenancy agreement. Both parties gave their testimony, were provided the opportunity to present evidence, make submissions and to cross-examine the other party. On the basis of the evidence presented at the hearing I have determined:

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to end the tenancy early; gain an Order of Possession on the basis of his application to end the tenancy early and to recover the filing fee from the tenants for the cost of this application pursuant to section 56 and 72 (1) of the *Act*. As the landlord has already served the tenants social worker no further orders will be issued for Substitute Service.

Background and Evidence

This tenancy started on August 14, 2009. Rent for this unit is \$700.00 per month due on the 1st day of each month. The tenants are both under 19 years of age. The tenants paid a security deposit of \$350.00 on August 14, 2009.

The landlords' property manager testifies that since the day the tenants moved into the unit they have caused problems with extreme noise, partying, excessive amounts of youths visiting, underage drinking, shouting and yelling obscenities, jumping from the balcony, climbing on the roof of the building and causing extreme disturbance to the other tenants in this building and an adjacent building. The landlord states that the police have been called out on numerous occasions and on one occasion they were called out their guns were drawn. Consequently the other tenants are fearful of their safety.

The landlord has provided written statements and letters from other tenants in this building and the adjacent building outlining the tenant's behaviour and conduct. One tenant has given Notice to the landlord to end their tenancy due to these tenants behaviour.

The tenant's social worker is acting on behalf of the tenants. She states that the tenants have caused some initial problems in the unit but feels they are being targeted by their neighbours and the landlord. She states that the tenants want to move from the unit and have agreed to move on September 30, 2009 as they have now found alternative accommodation.

Both parties have agreed to sign a mutual end to tenancy agreement; however the landlord still requests an Order of Possession be granted for September 30, 2009 in the event the tenants do not move out.

Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would end if Notice to End Tenancy were given under section 47 of the *Act* and grant an Order of

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Possession for the rental unit if the tenant or persons permitted on the residential property by the tenant has done any of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- (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
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) caused extraordinary damage to the residential property, and
- (b) 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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I find that the landlord has provided sufficient evidence, pursuant to section 56 of the *Act*, to show that the tenants or persons permitted on the property by the tenants have significantly interfered with or unreasonable distributed other occupants of the residential property. I find that the documented concerns relating to incidents caused by the tenants or persons permitted on

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the property by the tenants have also adversely affected the quiet enjoyment of the other tenants and those living in an adjacent building.

Due to the above I am satisfied, that it would be unreasonable and unfair for the landlord to wait for a One Month Notice to End Tenancy under section 47 of the *Act* to take effect and allow the landlords application for an early end to the tenancy. As the tenants have agreed to move out on September 30, 2009 I can only assume they will do so. However, I will also issue the landlord with an Order of Possession for this date in the event that the tenants do not move out.

Section 3 of the Act states that:

Act applies to tenancy agreement with a minor

- 3** A person who has not reached 19 years of age may enter into a tenancy agreement or a service agreement, and the agreement and this Act and the regulations are enforceable by and against the person despite section 19 of the *Infants Act*.

Therefore, Due to the above I find that the tenants are responsible for their own actions and the landlord must serve both tenants with the Orders and not the tenants social worker as she does not reside at the rental address.

As the landlord has been successful with their application they are also entitled to recover the \$50.00 filing fee.

Conclusion

The landlords' application for an Order to end the tenancy early is granted. An Order of Possession to take effect on **September 30, 2009** has been issued to the landlord. A copy of this Order must be served on the tenants. The Order of possession is enforceable through the Supreme Court of British Columbia.



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I also find the landlord is entitled to recover the cost of filing his application. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$50.00**. The order must be served on the tenants and is enforceable through the Provincial Court 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 23, 2009.

Dispute Resolution Officer