



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 in response to the landlord's application for Dispute Resolution, in which the landlords have applied for an Order of Possession on an Early End to Tenancy. The landlords stated that the application and Notice of hearing were given in person to the tenants on November 15, 2009. The tenants confirmed they did receive the hearing documents.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

The issues to be decided are whether the landlords are entitled to end the tenancy early and gain an Order of Possession on the basis of his application pursuant to section 56 of the *Act*.

Background and Evidence

The tenants rented a barn on the property from the landlords which was deemed by the fire Department and the local Building Department to be unsafe due to structural alterations and electrical hazards. The landlord's testify that some of the damage was created by a previous grow op at the property and some damage was caused by the tenants. The landlords state that the tenants had not paid rent and owed in excess of \$5,000.00. A 10 Day Notice to End Tenancy for Unpaid Rent was issued to the tenants on July 16, 2009. The City Bylaw Enforcement Department requested the landlord to bring the building up to code. The landlords could not afford to do this and the building was demolished on July 17, 2009. The landlords

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testify that they told the tenants they would have to move out as the building was being demolished and the tenants moved from the barn into the Quonset building on the property and have continued to live there since that time.

The landlords also testify that the tenants are involved in illegal activities. They have included in evidence a statement from the Local RCMP member detailing their involvement when they attended the property and seized weapons, ammunition, illegal drugs and stolen property from the tenant's rental unit. The landlords request an Order of Possession based on the illegal activities the tenants are allegedly involved in which has jeopardized or is likely to jeopardize the lawful right or interest of the landlord and has caused or is likely to cause damage to the landlords property. The landlord's state the tenants have no washroom or Hydro at the Quonset building and are taking electricity from their irrigation pole illegally.

The tenants dispute the landlord's allegations. The tenants testify that one of them had lived at the property for four years and when the landlords decided to demolish the barn they were only given two hours notice to vacate the barn. The tenants had no choice but to move into the Quonset building on the property. If the landlord had given them sufficient notice they would have found somewhere else to live. The tenants testify that they have a verbal agreement with the landlords to live in the Quonset building.

The tenants testify that although the RCMP members did remove items from the rental unit no charges have been brought against them.

Analysis

I find that although the tenants did not have the landlord's authorisation to reside in the Quonset building it was part of the property and therefore likely to be within the scope of the tenancy agreement. As a result I find that I have jurisdiction to grant the landlords with an Order of Possession based on the testimony and evidence presented at today's hearing.

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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 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 landlords have provided sufficient evidence, pursuant to section 56 of the *Act*, to show that the tenants have or are likely to have engaged in an illegal activity that has caused or

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is likely to cause damage to the landlord's property and has jeopardized or is likely to jeopardize a lawful right or interest of the landlords. I find that the tenants are using the Hydro from the landlord's irrigation system by hooking up an illegal connection from the irrigation pole which could cause damage to the property in the event of a fire. I also find (on the balance of probabilities) that the tenants have kept stolen property and drugs on the premises which have been removed by the police. I further find that the tenants have stored guns and ammunition at the properties which have also been removed by the Police.

Due to the above I am satisfied, that it would be unreasonable and unfair for the landlords to wait for a One Month Notice to End Tenancy under section 47 of the *Act* to take effect and grant the landlords application for an early end to the tenancy.

Conclusion

The landlords' application for an Order to end the tenancy early is granted. An Order of Possession to take effect **two days** after service of the Order on the tenants has been issued to the landlords. The Order of possession is enforceable through the Supreme Court of British Columbia.

I Order the tenants to pay the landlords costs of filing this application of \$50.00.

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: November 23, 2009.

Dispute Resolution Officer