

DECISION

Dispute Codes ET

Introduction

This matter dealt with an application by the Landlord for an order ending the tenancy earlier than it would end if the Landlord was required to serve the Tenant with a One Month Notice to End Tenancy for Cause and wait for the applicable notice period to expire.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy early?

Background and Evidence

This fixed term tenancy started on November 1, 2009 and expires on March 31, 2010. The Landlord claimed that the Tenant is involved in drug activity on the rental property. In support of this claim, the Landlord said that he has received complaints from a number of other tenants in the rental property about a steady stream of people coming and going from the rental unit at all times of the day. The Landlord also said that these "guests" spend only a short period of time at the rental unit, leave briefly, sell drugs on the rental property and then return to the rental unit again for a short period of time.

The Landlord also claimed that the Vancouver Police Department had the Tenant under "active surveillance" and on January 29, 2010, arrested the Tenant on the rental property. The Landlord also claimed that the VPD found drugs in the rental unit and that charges against the Tenant are pending in connection with this incident.

The Tenant admitted that there are approximately 9 to 10 people coming and going from his rental unit each day and that their presence is related to "silly things" or "mistakes" in which he has been involved. The Tenant said that when he tried to get out of this activity, he was beaten up for which he sustained a broken jaw and was hospitalized 8 days ago (and will not be released for approximately one week). The Tenant denied that any illegal drugs were found in his rental unit or on his person on January 29, 2010. The Tenant argued that he intended to move out but needed until the end of the month to find a new residence. The Tenant claimed that he is no longer involved in "silly things" and said that there would be no further traffic coming and going from his rental unit.

The Landlord argued that the Tenant will, in all probability continue to sell drugs from the rental unit once he is released from the hospital. The Landlord said that even after the "take down" on January 29, 2010, the Tenant continued to sell drugs based on the steady stream of known drug users and dealers that he and other tenants saw coming and going from the rental unit. The Landlord also claimed that a "guest" of the Tenant

was subsequently stabbed outside of the rental property and was followed by the VPD to the rental unit by following his trail of blood. The Landlord said the Tenant's guest advised the VPD that he would be residing in the rental unit until March 31, 2010.

The Landlord relied on the evidence of 4 witnesses who reside in the rental unit. All of the witnesses claimed that there was a steady stream of what appeared to be "street kids" coming and going from the rental unit at all hours of the day, every day. Some of the witnesses claimed that they would then see these people leave the rental unit and sell drugs outside of the building only to return to the rental unit shortly after and repeat this process. Many of the Tenants claimed that they smelled odd odours coming from the rental unit and suspected that it was "crack cocaine." All of the Tenants claimed that they found the alleged drug activity unsettling and feared for their safety and security.

Analysis

Section 56 of the Act says that a Landlord may apply to end a tenancy earlier than it would end if a Notice to End tenancy for Cause under s. 47 of the Act had to be given. In order to succeed on such an application, the Landlord must show that one or more of the grounds set out in subsection 56(2) of the Act exists and that it would be unreasonable or unfair to have to wait for a Notice to End Tenancy under s. 47 of the Act to take effect. In other words, the Landlord must show that the conduct complained of is so serious or urgent that it warrants eviction on an expedited basis.

Given the Landlord's evidence and that of his witnesses and given the Tenant's lack of a denial of his involvement in drug activity and his reference to it instead as "silly things" or "mistakes," I conclude that the Tenant has been involved in drug activity on the rental property. Given the evidence of the Landlord's witnesses that they fear for their security and safety and given also the evidence of the Tenant that he was physically assaulted when he tried to remove himself from this activity, I find that there are grounds to end the tenancy. In particular, I find on a balance of probabilities that the Tenant has engaged in an illegal activity that 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.

Given that there is evidence of the Tenant engaging in drug activity throughout the tenancy, I further find that it is unlikely that the Tenant will cease this activity any time soon. Consequently, I find that it would be unreasonable or unfair to the landlord or other occupants of the residential property to have to serve the Tenant with a One Month Notice to End Tenancy for Cause under s. 47 of the Act and to wait for that Notice period to take effect. As a result, I find pursuant to s. 56 of the Act that the Landlord is entitled to an Order of Possession to take effect 48 hours after service of it on the Tenant.

Conclusion

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

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: March 02, 2010.

Dispute Resolution Officer