

## **Dispute Codes**     ET

### **Introduction**

This hearing was convened in response to the landlord's application for an early end of tenancy.

All parties attended the hearing and gave evidence under oath.

### **Issues(s) to be Decided**

Would it be unreasonable, or unfair to the landlord or other occupants of the residential property, to serve a Notice to End Tenancy under section 47 [*landlord's notice: cause*] and wait for that notice to end the tenancy to take effect.

### **Background and Evidence**

The landlord testified that this tenancy began in November 2009. The landlord testified that the landlord has had to endure constant harassment by the tenant. The landlord testified that the tenant constantly complains about noise from the tenant above her and a variety of complaints about other tenants and their pets. The landlord testified that the tenant writes letters to the landlord and leaves phone messages about imagined complaints of other tenants in the building. The landlord submitted approximately 17 letters from other tenants in the building. The general theme of the letters is that this tenant screams and threatens other tenants in the building. Both parties submitted CDs of telephone messages and conversations they both recorded.

The landlord testified that, in addition to her job as manager of the building, she works at Burnaby General Hospital and the tenant has threatened to jeopardize her job with Burnaby General Hospital telling them that the landlord is being investigated for human rights violations. The landlord also testified that she has been advised by another tenant that this tenant has threatened to kill her, the other manager and another tenant.

The landlord produced two witnesses at the hearing. CB and CE. CB testified that she lives above this tenant and the tenant turns her stereo up very loud yet she constantly complains about noise. CB testified that on one occasion the tenant came to her door. CB says she has a policy of not opening the door before she knows who is on the other side. She asked who was at the door and when she realized it was this tenant she decided not to open the door. CB says she is afraid of the tenant. CB says the tenant screamed at her through the door saying she has to stop making noise "...or else..." CB says she later received a letter from the tenant asking her to "...please stop victimizing me with your noise, I'm begging you if you have an ounce of compassion left in your heart". In the letter the tenant goes on to say that she cannot sleep, is unemployed, depressed, sad, unable to eat, cannot function normally, have lost weight and stating she would be admitted herself into the hospital. CB says she does not make anything other than the normal noise. CB says she believes the noise of which the tenant complains is all "...in the tenant's head...". CB says that evidence of this is that when she was on a 3 week vacation away from her home the tenant still complained to the landlord of noise coming from her rental unit even though no one was occupying the unit except a friend who came every few days to water plants.

CE testified that it was her daughter's 10 year old friend who heard the tenant say that she intended to kill the landlord, the co-manager and CB. CE says her 11 year old daughter is afraid of the tenant because the tenant has described how, in the past, she stabbed a person in a park. CE says the tenant takes pictures of the children while they play outside. CE says the tenant calls her daughter a "nerd" when they meet in the hallway or lobby. CE says she sold the tenant some hair extensions and the tenant is having problems with the hair extensions and she keeps accosting her in the hallway and in the lobby demanding that CE fix the hair extensions.

The landlord testified that the tenant threatens to sue her, to take her to the human rights tribunal and to go to the media. The landlord says that nothing the tenant complains of exists. The landlord has asked the tenant to document the noise from

upstairs but she never does. The landlord says she believes that the noises are "...all in her head..." The landlord testified that at the beginning of June she felt completely harassed by the tenant via the letters the tenant sent and the constant phone messages the tenant left on her telephone answering machine. The landlord says she called the police and showed them the letters and played the recorded messages left by the tenant. The police then attended at the tenant's rental unit and took her to the hospital where the tenant stayed for some time.

The tenant agrees that she has Bipolar Disorder and that she has feelings of extreme highs and lows. The tenant says that she has never threatened anyone and certainly did not attempt to stab anyone in a park. The tenant submitted a letter addressed to the Landlord and Tenant Board dated July 2, 2010, the letter, not served on the landlord was read into evidence. It states that the tenant suffers from a mental illness called Bipolar Disorder and that from June 10 to Jun 28, 2010 the tenant was admitted on an involuntary basis to Burnaby Hospital where she received treatment. Prior to this admission the tenant's illness had gone untreated. The letter states that if the tenant does not comply with her treatment or attend appointments with her mental health treatment providers, she can be brought back to the hospital under the Mental Health Act. The tenant testified that she tried to kill herself at one point in her life and since that time she has been under the Mental Health Act and that this means whenever the police feel like it they may come and apprehend her and place her into the hospital which is what they did on June 10, 2010 when the landlord called the police to complain about her.

The tenant says she talks to no one in the building and keeps to herself because the others are on drugs and she does not wish to associate with them because she does not do drugs except for some hashish from time-to-time to control her muscles. The tenant says she was not taking photographs of the children but she was taking photographs of the serial number of her BBQ in case it was stolen. The tenant submits that this may be why the children thought she was taking their picture. The tenant says the matter is simply that the rental unit has people in it who are doing drugs, making

noise, letting their pets run freely and the landlord does not take care of repairs. The tenant says she complains about these issues and this is why the landlord is trying to evict her.

### **Analysis and Findings**

When a tenant has problems with their rental unit with respect to noise and/or the lack of repairs or maintenance the tenant should report the problems to the landlord. It would be reasonable to report the matters verbally at first then, if the landlord does not address the matters, to report them again in writing. If the landlord still refuses or neglects to address the issues then the tenant should file an Application for Dispute Resolution with the Residential Tenancy Branch seeking resolution of the problems. The evidence shows that this tenant did not do this. Instead, the evidence shows that the tenant left one message after the other on the landlord's answering machine and wrote letters repeatedly to the landlord and other tenants about her complaints. The evidence also shows that the tenant threaten to sue the landlord for a financial award in the civil courts, to take the landlord to the human rights tribunal and to involve the media. However, the tenant did not avail herself of the one process set in place to deal with disputes between landlords and tenants. She simply maintained her own campaign of complaints and threats which I find came to become harassing to the landlord and to other tenants. I find that not only were her phone messages and letters harassing, they were also threatening. In one instance, as set out in the tenant's own evidence, the tenant threatened the landlord by telling her she would contact the landlord's other employer to advise them that the landlord was under investigation by the Human Rights Tribunal.

The tenant has submitted evidence to show that she suffers from Bi-polar Disorder and, it is reasonable and probable that this diagnosis may well be the reason for her actions. However, the Act does not provide special dispensation to allow tenancies to continue when the actions of one of the parties arises from their illness.

I have considered the evidence of the parties including the letters written by the other tenants and the testimony of the witnesses, but even if I have not I find that by her own evidence, the tenant has shown that she conducted herself in a manner which significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property. I find that the tenant's actions have adversely affected the quiet enjoyment, security, safety or physical well-being of the landlord and other occupants. I find that the unrelenting nature of her conduct to be frightening such that 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.

### **Conclusion**

The landlord is granted an Order of Possession effective immediately.

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