



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

ET and OPC

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has applied to end the tenancy early and for an Order of Possession.

The Property Manager stated that he served copies of the Application for Dispute Resolution and Notice of Hearing to the Tenant at the rental unit on September 20, 2010 at 1010 hours. In the absence of evidence to the contrary, I accept that these documents were personally served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to end this tenancy early and to an Order of Possession, pursuant to sections 55 and 56(1) of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Property Manager stated that on September 13, 2010 he learned that the Tenant had an argument with a male resident of the residential complex, in regards to the male resident pushing a female resident. He stated that he subsequently provided the male resident with a warning letter cautioning him about his behaviour.

The Property Manager stated that he subsequently learned that the altercation between the Tenants was more serious than he originally believed so he viewed the video surveillance recordings. He stated that the recordings show the male resident enter the shared washroom facilities; that the female resident goes to the washroom approximately one minute later; that she backs quickly out of the washroom approximately twenty seconds later; the female returns to another resident's room and approximately three minutes later enters the Tenant's room; and approximately fourteen minutes the female resident and the Tenant are standing outside the male resident's room. While standing outside the room the video recordings show that the Tenant is

knocking on the male resident's door with his left hand and is holding a knife in his right hand. The knife is being held at his knee with the blade facing forward. The recording shows that the male resident did not answer the door and nothing further transpired.

The Executive Director stated that on September 23, 2010 the Tenant was arrested by the police for uttering threats against the male resident and that there is now a court order that prohibits him from being at the residential complex unless he is accompanied by the police.

Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and he may apply for an Order of Possession for the rental unit. Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has engaged in 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
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

After considering all of the evidence presented by the Landlord and in the absence of evidence to the contrary, I am satisfied that the Tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant. In reaching this conclusion I was strongly influenced by the Property Manager's recollections of the images he saw on the surveillance recordings, which shows the Tenant knocked on the door of another resident while armed with a knife. Considering that the Tenant was accompanied by a female who had very recently had an altercation with the resident of this room, I find it reasonable to conclude that the Tenant was at the room for a nefarious purpose. I find that this incident could have seriously jeopardized the health or safety of the other resident, had he answered his door, and that this behaviour constitutes grounds for ending this tenancy.

Given the potential for violence, I find that it would be unreasonable in these circumstances to wait for a notice to end the tenancy under section 47 to take effect.

In rendering this decision I note that I found the testimony of the Property Manager to be highly credible, even though it was not supported by the video recordings viewed by the Property Manager, which are currently in possession of the RCMP.

Conclusion

Based on these findings I grant the Landlord an Order of Possession that is effective immediately. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Dated: September 27, 2010.

Dispute Resolution Officer