

DECISION

Dispute Codes: ET and FF

Introduction

This application was brought by landlord on October 1, 2010 seeking an Order of Possession to end the tenancy early under section 56 of the *Act*. This section permits such applications in situations where it would be unreasonable for the landlord to wait for an order under section 47 of the Act which requires a Notice to End Tenancy of a minimum of 30 days.

Issue(s) to be Decided

This application requires a decision on whether the landlord is entitled to an Order of Possession under the requirements of section 56 of the *Act* and, if so, the effective date of such order.

Background and Evidence

This tenancy began on August 27, 2010. Rent is \$600 per month and the landlord holds a security deposit of \$300 paid on August 20, 2010.

During the hearing, the property manager gave evidence that as a result of continuous complaints of disturbances from the rental unit, the tenant was issued with a Notice To End Tenancy for cause on August 27, 2010 with an end of tenancy date of September 30, 2010, served in person and witnessed..

The property manager gave evidence that the tenant subsequently advised her that she would be moving pursuant to the notice and even named the complex to which she would be moving. The landlord arranged to rent the unit to new tenants, but the subject tenant did not move.

The tenant stated that she had neither received a Notice to End Tenancy, nor that she had told the landlord that she would be moving.

The landlord submitted a number of letters from five other tenants and the caretaker starting on the first day of the tenancy, and witnesses gave evidence of:

1. Constant yelling, banging, partying and loud music and the smell of marijuana smoke coming from the rental unit at all hours;
2. At times up to 14 boys partying in the rental unit;
3. Drinking beer in common areas and beer cans and cigarette butts left on the property by guests of the tenant;
4. Profane replies when other tenants have attempted to request quiet from the tenant;
5. No abatement of these activities following the notice to end tenancy;
6. Such loud screaming by the tenant at her children as to cause other tenants concern for their safety;
7. One tenant having to sleep somewhere other than his rental unit because of the constant disturbances;

8. At least two other tenants advising that they will have to leave if the matter is not resolved;
9. Suggestions of retaliation against complainants;
10. Attendance of police required on at least five occasions;
11. The most recent complaints arose from activities in the rental unit two nights before the hearing;
12. The Ministry of Children and Families taking custody of the tenant's children.

The tenant stated that some of what appeared to be conflict arose from the fact that her daughter suffers from an emotional disorder and is a challenge to manage. She stated that she believed that she was the victim of an organized campaign by other tenants to have her evicted and that she had not been home on the night of the last alleged disturbance..

Analysis

Section 56(2)(a) of the *Residential Tenancy Act* provides that an Order of Possession for an early end of tenancy may be issued, among other reasons, where the tenant or a person permitted on the property by the tenant, has:

- (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;

I find as fact that the tenant has significantly interfered with and disturbed the landlord and other occupants and seriously jeopardized their safety and lawful interests and that the conduct of the tenant and her guests is of sufficient frequency and magnitude to warrant an early end to this tenancy.

On hearing that determination, the landlord requested and I find she is entitled to an Order of Possession to take effect three days after service of on the tenant.

I further authorize that the landlord may recover the filing fee for this proceeding by retaining \$50 from the tenant's security deposit.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect three days from service of it on the tenant.

The landlord may recover the filing fee by retaining \$50 from the tenant's security deposit and the landlord remains at liberty to make application for a Monetary Order for damages or losses as may be ascertained at the end of the tenancy.

October 15, 2010