



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET, FF

Introduction

This matter dealt with an application by the Landlord for an Order ending the tenancy earlier than it would end if she 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 (or until the effective date). The Landlord also applied to recover the filing fee for this proceeding.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) on November 3, 2010 by posting it to the rental unit door with 2 witnesses in attendance. Based on the evidence of the Landlord’s agent, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant’s absence.

At the beginning of the hearing, the Landlord admitted that she had not served the Tenant with a copy of her evidence package. Consequently, I find that the documents submitted by the Landlord as evidence at the hearing are excluded pursuant to RTB Rule of Procedure 11.5(b).

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 April 1, 2010 and expires on March 31, 2011. The Landlord’s agent said that she began acting as the building manager for the Landlord on August 1, 2010 and since that time has received many complaints from other occupants of the rental property about the Tenant. In particular, the Landlord’s agent claimed that the Tenant has parties almost every weekend with large numbers of guests attending who make an unreasonable amount of noise, are rude to other occupants of the building and have created a safety concern for other occupants.

On September 10, 2010, the Landlord said one of the Tenant’s guests threw bear spray against a door of another unit on the 3rd floor and that as a result, the police and fire department had to be called. The Landlord’s agent said all of the occupants from the

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3rd floor had to be evacuated for a period of 2 – 3 hours while the building was ventilated. The Landlord's witness, J.B., who is a neighbour of the Tenant also gave evidence regarding this incident and said she was concerned for the health of her two young children, one of whom has cancer. J.B. also claimed that she is often disturbed by the loud noises that come from the Tenant's suite and hallway during parties which last late into the night just about every weekend. The Landlord said she gave the Tenant a warning about this incident and told him it was unacceptable but he continued to have loud parties that seemed to escalate.

On October 22, 2010, the Landlord said the Tenant and another tenant on the 3rd floor had a large party that spilled into the hallway. The Landlord's agent said she received a complaint from her witness B.B. late in the evening about noise and being spoken to threateningly by guests in the hallway so she confronted the Tenant and advised him that the noise and number of guests were unreasonable. Later that evening, the Landlord's agent said a fight broke out between some of the Tenant's guests and one of them left a trail of blood in the stairwell from the 3rd floor to the bottom floor and on the main entrance window. The Landlord's witness, B.B., also gave evidence that after the Landlord's agent left the Tenant's suite, one of his guests started turning her door knob and kicking her door. B.B. said she was concerned for her safety.

The Landlord's agent said she gave the Tenant another warning on October 22, 2010 however, the Tenant has ignored her requests and he continues to have loud parties and disrespectful guests that disturb other tenants. The Landlord said that when she has attempted to deal with the Tenant's guests, they are also rude and verbally abusive to her. The Landlord said some of the other tenants are concerned about their safety and have threatened to leave if the Tenant is not removed. Both of the Landlord's witnesses claimed that they fear for their safety and can no longer tolerate the excessive noise and bad behaviour of the Tenant's guests.

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 s. 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.

Based on the evidence of the Landlord and her witnesses regarding events from September 10 – October 22, 2010, I find that the Tenant or a person permitted on the residential property by the Tenant has significantly interfered with or unreasonably disturbed other occupants and the landlord of the residential property. Given the



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Tenant's demonstrated unwillingness or refusal to comply with the Landlord's reasonable requests, I also find that it would be unreasonable to wait for a notice to end tenancy under s. 47 of the Act to take effect. Consequently, I find that the Landlord has established that she has grounds to end the tenancy early.

The Landlord requested and I find pursuant to s. 56 of the Act that she is entitled to an Order of Possession to take effect 2 days after service of it on the Tenant. As the Landlord has been successful in this matter, I also find that she is entitled to recover the \$50.00 filing fee for this proceeding and I order that she may deduct that amount from the Tenant's security deposit.

Conclusion

An Order of Possession to take effect 2 days 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: November 10, 2010.

Dispute Resolution Officer