



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to end the tenancy early and obtain an Order of Possession.

Service of the hearing documents and evidence, by the Landlord to the Tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on December 1, 2010. Mail receipt numbers and proof of delivery were provided in the Landlord's evidence. The hearing documents and evidence were signed received by the Tenant on December 2, 2010.

The parties appeared at the teleconference hearing, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, in documentary form. No one appeared on behalf of the Tenant despite him being served with notice of today's hearing in accordance with the *Act*.

Issues(s) to be Decided

1. Has the Tenant breached the *Residential Tenancy Act*?
2. If so, would it 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?

Background and Evidence

The parties entered into a written month to month tenancy agreement effective November 15, 2010. The market value of the rent is \$633.00 and the Tenant's

subsidized rent of \$327.00 is payable on the first of each month. A security deposit was to be paid by income assistance in the amount of \$316.50 however it has not yet been received by the Landlord. The Landlord houses low income seniors and disabled tenants. There are 52 units on five floors with the sixth floor designated as a common area.

The police constable testified that he has been a police officer for ten years and prior to that he worked in corrections for five years. He is a member of the emergency response team and this rental building is part of his crime free multi housing program. He has dealt with numerous complaints of people coming and going to the Tenant's unit at all hours of the day and night. He is of the opinion that the behaviour and current activity is consistent with drug trafficking and heavy drug use. It has been his experience that violent behaviour is related to this type of behaviour and the other tenants safety is being put at risk. He is concerned that they are actively using the Tenant's suite to use drugs and they will continue to invite others to join them. The police constable confirmed that he has attended the rental unit to speak to the Tenant however he has not been able to locate the Tenant. He stated that enough people have witnessed the high traffic of people, coming, going, and smoking drugs in a vehicle in the parking lot. The license plate of the vehicle was reported and the police constable is aware of this vehicle being involved in recent drug investigations. In closing the constable stated that he has no doubt that if this Tenant continues this behaviour at the rental unit that the quiet enjoyment of the other tenants will continue to be negatively affected. He stated that the other tenants will continue to be at risk and they may be a victim of a crime if this tenancy continues.

The Landlord advised that he believes this Tenant's past rental unit provided strict supervision which prevented him from acting in the manner at his previous residence. He issued the Tenant a warning letter shortly after he occupied the unit on November 15, 2010 and then issued a 1 Month Notice to End Tenancy on November 23, 2010 at 11:15 a.m. when he personally served the Tenant in the presence of the Tenant's girlfriend. He realized this Tenant was causing a serious problem so he contacted the

police and provided them with the license number of the vehicle that has been seen at the unit on a regular basis. He has since heard several complaints from other tenants that there are people constantly knocking on their doors, doing drugs, and putting their safety at risk. They have had instances where the Tenant's visitors have been peeing in the elevator, checking door handles on other tenant's rental units, spitting in the elevator, and throwing up in the rental building.

The building caretaker testified that on December 3, 2010, he witnessed three youths approach the building and they entered through the front door with a key. These youths do not reside in this building so he approached them when he was faced to deal with a belligerent female. He backed away and watched as they went to the Tenant's unit. He has heard from several tenants how they feel their safety has been threatened. He has installed door viewers and in one case changed a tenant's lock to quell his fear that someone had entered the building.

Analysis

Section 56 of the *Act* allows a tenancy to be ended early without waiting for the effective date of a one month Notice to End Tenancy if there is evidence that the tenants have breached their obligations under the tenancy agreement or *Act* and it would be unreasonable or unfair to wait for the effective date of a one month Notice to End Tenancy.

There was very little documentary evidence on which to determine the issue before me; however, based on the testimony provided during the hearing I find that the Tenant has significantly breached the tenancy agreement and the *Act* by taking the actions he has. I accept that the Tenant's behaviour has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord and has adversely affected or likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property. Based on these conclusions I find that the landlord has established sufficient cause to end this tenancy.

Next I have considered whether it would be unreasonable or unfair to the landlord to wait for a one month Notice to End Tenancy to take effect. I have accepted that the Tenant engages in illegal activities and has provided non-tenants with a key to the building which places all other residents and the landlord of the building at risk. Based on these conclusions I find it would be unreasonable to wait for a one month Notice to End Tenancy to take effect. The relationship is deteriorating and escalating with the possibility for the landlord or tenants to suffer further loss or damage. Therefore, I grant the landlord's application to end this tenancy early and I hereby grant the Landlord an Order of Possession.

The Landlord has been successful with his application, therefore I award recovery of the \$50.00 filing fee.

Conclusion

The Landlord's decision will be accompanied by a Monetary Order for \$50.00. This Order may be filed in Provincial Court and enforced as an Order of that Court.

The Landlord will also receive an Order of Possession effective immediately upon service to the Tenant. This Order must be served on the Tenant and may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

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: December 07, 2010.

Dispute Resolution Officer