



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Code: ET

Introduction:

This is the Landlord's application for an early end to the tenancy and an Order of Possession.

Both parties signed into the teleconference and gave affirmed testimony at the Hearing.

The Landlord testified that he personally served the Tenant with the Notice of Hearing and copies of his documentary evidence on February 23, 2011, at 6:15 p.m. at the rental unit.

Issue to be Determined:

Has the Landlord shown that there is cause to end this tenancy and that it would be unreasonable or unfair to wait for a one month Notice to End Tenancy under the *Residential Tenancy Act* (the "Act") to take effect?

Background and Evidence:

The parties entered into a tenancy agreement on March 10, 2010. A copy of the tenancy agreement was entered in evidence. This is a month-to-month tenancy, which commenced on March 15, 2010. The rental unit is in a building which is designated for seniors and/or persons with disabilities.

The Landlord gave the following testimony:

The Landlord is concerned about the condition of the rental unit. The rental unit is full of combustible materials. The Tenant is a hoarder. The bath tub and the kitchen sink are so full of dirty dishes, that the Tenant cannot use them. The Tenant had the assistance of support workers to help the Tenant keep his home clean and tidy, but stopped allowing them to enter the rental unit. The Landlord provided photographs of the rental unit in evidence.

There are bed bugs in the rental property and the Landlord is attempting to eradicate them from the building. The Tenant refuses to cooperate, by denying access to his suite by the pest control people and failing to prepare his suite for treatment.

On January 19, 2011, the Tenant tied a drop cloth to a heat sensor, which triggered an alarm. The fire department had to set up a fire watch overnight until the alarm system could be repaired.

The fire department attended twice in 8 days because of the Tenant's actions. The Landlord referred to correspondence from the Fire Department, dated February 2, 2011, which states that the Tenant triggered the main alarm in the building, filling the hallway with smoke. The Fire Department official states that on the two occasions he has personally dealt with the Tenant, he appeared to be impaired. He was disturbed by the fact that the Tenant appeared to find the situation humorous. The fire department official is concerned because the rental unit is stuffed full of the Tenant's belongings which constitutes a "very large fuel load", stating that if it is ignited, the fire could very quickly consume the contents of the Tenant's home and "transition into a fire which will start consuming the actual structure."

On February 22, the police were called as a result of the Tenant making verbal threats. The Police arrested the Tenant on an unrelated warrant for failure to comply with a court order. After the Tenant was removed from the rental unit, it was discovered that a stove element was turned on.

The Landlord is fearful of the amount of fuel in the Tenant's home, and the fact that he doesn't appear to have the ability to associate the danger or seriousness of leaving his

stove on or damaging the alarm system. The rental property is an older, wood frame building with no live-in caretaker.

The Tenant gave the following testimony:

The Tenant does not think the situation is funny. He does not have a drinking problem. The Tenant has a medical condition, asthma and a heart condition, and is taking new medication which makes him forgetful. The Tenant also has HIV. The Tenant cannot afford a phone, so he set up the fire alarm system so people could save his life if he had a heart attack.

For the first 6 months of the tenancy he was fighting for a locker where he could store some of his belongings.

The Tenant left a burner on, but he does not cook anymore in the rental unit.

The Tenant agreed that the photographs were an accurate depiction of the current condition of the rental unit. He stated that he needs assistance to keep his place clean and tidy. The Tenant did not allow the pest control people in because he couldn't prepare his home for the treatment. The Tenant did not allow entry to his bedroom on another occasion because he was entertaining a woman who did not wish to be discovered.

The Landlord gave the following reply:

The Tenant used to have homecare assistance, but has refused entry to the rental unit for his caseworker. She advised the Landlord that he would not answer the door and not respond to notes left for him. The rental unit is becoming worse and worse.

Analysis:

In making an application for an early end to this tenancy the Landlord has the burden of proving that there is cause for ending the tenancy early, such as unreasonably

disturbing other occupants; seriously jeopardizing the health and safety or lawful right or interest of the landlord or another occupant; and placing the landlord's property at significant risk. The Landlord must also satisfy me that it would be unreasonable or unfair to the Landlord or other occupants to wait for a one month Notice to End Tenancy for cause under Section 47 of the Act to take effect.

The Tenant acknowledges tinkering with the heat sensor and leaving his stove on. He acknowledges that he is forgetful. He acknowledges that the photographs provided by the Landlord are accurate. The photographs indicate an extremely cluttered apartment with no room to use the rooms for the purposes they are intended. The clutter consists of flammable materials. If there were to be a fire and it spread quickly, the other occupants in the building are elderly or have disabilities and may not be able to evacuate the building in time.

Based on the affirmed testimony and documentary evidence of the Landlord, I am satisfied that the Landlord has proven that the Tenant has seriously jeopardized the health and safety or lawful right or interest of the Landlord or another occupant; and placed the Landlord's property at significant risk and that it would be unreasonable or unfair to the Landlord and the other occupants of the building to wait for a one month Notice to End Tenancy for cause to take effect.

I order that the end-of-tenancy date is today, March 3, 2011, and find that the Landlord is entitled to an Order of Possession effective **2 days after service of the Order upon the Tenant.**

Conclusion:

I hereby provide the Landlord an Order of Possession **effective two days from service of the Order upon the Tenant.** This Order must be served on the Tenant and may be filed in 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: March 03, 2011.
