



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Code: ET, FF

Introduction:

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

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that the Tenant was personally served with the Notice of Hearing Documents on February 28, 2011 at 2:00 p.m. at the psychiatric ward of a hospital. A nurse was present and witnessed the service.

Based on the affirmed testimony of the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents in accordance with the provisions of Section 89(1)(a) of the Act. Despite being served with the documents, the Tenant did not sign into the teleconference and the Hearing continued in his absence.

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 *Act* to take effect?

Background and Evidence:

This is a month-to-month tenancy. Rent, in the amount of \$700.00 is due on the first day of each month. The rental unit is one of several cabins on the rental property. The Landlord also resides on the rental property. The Tenant paid a security deposit in the amount of \$350.00 at the beginning of the tenancy.

The Landlord gave the following testimony:

The Landlord is concerned about the Tenant's alarming behaviour which has been escalating over the past month.

On or about the end of January, or the beginning of February, 2011, the Tenant used a ladder to climb on the Landlord's roof because she would not answer her door. He remained there for about an hour, until the Landlord came outside and talked him down.

On February 20, 2011, the Landlord was returning to her home in the evening. The Tenant appeared out of the darkness and demanded a hug. The Landlord explained that she didn't want to hug him, and that her fiancé would not approve. The Tenant replied that he didn't care what her fiancé, or she, said. The Tenant used profanities.

On February 21, 2011, the Landlord discovered that the Tenant had placed nails, broken pottery, tools and other debris in her driveway in order to prevent her from leaving her home. The Landlord called the Tenant's mental health worker, who attended. The worker wanted the Tenant to go to the hospital for assistance, but the Tenant refused. The Tenant became agitated, smashed a door and yelled profanities. That evening, the Landlord heard loud noises.

On February 22, 2011, the Landlord woke to more debris blocking her exit, including furniture. The Landlord called the Police, who came and spoke with the Tenant and warned him to cease that behaviour. The mental health worker also attended.

On February 23, 2011, the Landlord called 911 because the Tenant had blocked her exit again and painted "Rat's Ass" on the side of his cabin. The Police attended and took the Tenant to the hospital. The Tenant is still at the hospital.

The Landlord is fearful for the safety of herself and her daughter and seeks to end the tenancy and an Order of Possession.

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 or the Landlord; 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.

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, unreasonably disturbed the Landlord, and that it would be unreasonable or unfair to the Landlord 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 7, 2011, and find that the Landlord is entitled to an Order of Possession effective **2 days after service of the Order upon the Tenant.**

The Landlord has been successful in her application and is entitled to recover the cost of the filing fee from the Tenant. Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may apply \$50.00 from the security deposit being held for 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.

Pursuant to the provisions of Section 72(2)(b) of the Act, the Landlord may recover the filing fee of \$50.00 from the security deposit being held for the Tenant.

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 07, 2011.
