



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes ET, FF

Introduction

This is the Landlord's Application for Dispute Resolution, seeking extraordinary relief under section 56 of the Act and requesting to end the tenancy earlier than the tenancy would end under a Notice to End Tenancy, to obtain an order of possession for the rental unit, and to recover the filing fee for the Application.

The Tenant was personally served with the Notice of this Hearing, which was witnessed by a third party, on April 6, 2011. Despite this the Tenant did not appear at the Hearing. I find that the Tenant has been duly served in accordance with the Act.

The Landlord, an Agent for the Landlord and two witnesses appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. I note one witness was excused prior to giving testimony.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

Should the tenancy end early and an Order of Possession be granted to the Landlord?

Background and Evidence

The Landlord alleges the Tenant, or a person permitted on the property by the Tenant, is putting the health and safety of the other residents at risk, and has seriously jeopardized a lawful right or interest of the Landlord.

The Landlord also submits that the rental unit is suffering damages due to the Tenant's actions, or due to the actions of people the Tenant has allowed in, as the Tenant has allowed an unreasonable amount of occupants.

A witness testified that the Tenant has been creating disturbances at the rental unit since the tenancy began. The witness went on to testify that there have been altercations in the front yard area of the rental unit late in the middle of the night. The witness recounted six different times when the police attended at the rental unit for noise disturbances. The witness testified he had seen the police attend at these times, however, he explained he was not the person who phoned the police. He alleges that other neighbours who were also disturbed by the noise must be calling the police.

The witness also testified about a pit bull dog that the Tenant has at the rental unit, which has been left loose to run in the neighbourhood. The witness explained that an animal control officer had to attend the rental unit with a police escort in order to enforce a bylaw regarding the dog. According to the witness the dog has threatened him and the witness is concerned for the safety of small children and other people in the area. The witness also testified that lately there has been a second pit bull being kept at the rental unit.

The Landlord testified and provided in evidence a copy of the Tenancy Agreement which does not allow pets at the rental unit.

The witness also testified he has seen and smelled marijuana being smoked at the rental unit in the exterior portion. He is concerned because there are young children in the rental unit and other children living in the immediate area.

The Agent for the Landlord testified and submitted evidence that she had given the Tenant a warning letter on March 2, 2011, regarding a police attendance for a loud party in the rental unit at 1:00 a.m. in late February. The Tenant was cautioned that any further disturbances would be grounds to end the tenancy.

There was another disturbance at the rental unit following this and on March 7, 2011, the Landlord issued the Tenant a one month Notice to End Tenancy for cause, which had an effective date of April 30, 2011. The Landlord cited an unreasonable number of people occupying the rental unit, noise complaints and the smoking of marijuana as grounds for terminating the tenancy.

The Landlord and the Agent testified that following the one month Notice to End Tenancy the partying at the rental unit escalated and a neighbor was physically threatened by the Tenant, or a person permitted at the property by the Tenant.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenant, or a person permitted on the property by the Tenant, has significantly interfered with or unreasonably disturbed another occupant or the Landlord, and has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well being of another occupant or the Landlord.

I find and I am satisfied that it would be unreasonable and unfair to the other occupants of the residential property and the Landlord, to wait for the Notice to End Tenancy to take effect at the end of the month.

Therefore, I grant the Landlord an early order of possession effective at **1:00 p.m. April 21, 2011.**

This order may be enforced in the British Columbia Supreme Court.

The Landlord may retain \$50.00 from the security deposit held to recover the filing fee for the Application.

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: April 19, 2011.

Residential Tenancy Branch