



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under section 56 of the Act, seeking an order to end the tenancy earlier than the tenancy would end with a Notice to End Tenancy under section 47 of the Act, to obtain an order of possession for the rental unit and to recover the filing fee for the Application.

Two Agents for the Landlord 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.

One Agent testified that he had personally served the Tenant with the Notice of Hearing and the Application of the Landlord on August 2, 2011. The other Agent testified she witnessed the personal service on the Tenant. Despite this the Tenant did not appear at the hearing. I find the Tenant has been duly served in accordance with the Act.

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

On July 8, 2011, the Tenant was served with a one month Notice to End Tenancy for cause. The Agents testified that the Tenant has applied to cancel the one month Notice to End Tenancy, however, that hearing is scheduled for later this month.

Allegations of serious and ongoing events at the rental unit have prompted the Landlord to seek an earlier end of tenancy than that in the one month Notice and an immediate order of possession.

The affirmed evidence of the Agents is that the Tenant, or persons permitted on the residential property by the Tenant, is significantly interfering with or unreasonably disturbing other occupants of the residential property.

The Agents also testified that the rental unit is suffering damages due to the Tenant's actions or the actions of people the Tenant has allowed in.

In evidence the Landlord submitted copies of a record book of complaints regarding the rental unit, a warning letter issued to the Tenant and police file numbers.

The Agents testified that the evidence supports that there is continuous noise, such as fighting, screaming, swearing, slamming of doors and pounding on the walls, coming from the subject rental unit.

The Agents testified that the Tenant, or persons permitted on the property by the Tenant, is constantly fighting and making noise well past 11:00 p.m. in the evening, and often all night.

The Agents testified that other residents of the building have been making complaints about the constant late night noise and fighting sounds coming from the rental unit. Several of the other residents have informed the Landlord they are losing sleep due to the disturbances and are contemplating ending their tenancies and vacating the building. According to the testimony of the Agents, the other residents are also expressing fear for their safety in the building.

The Agents explained the residential property contains 27 rental units and some are occupied by families with children.

The Agents went to the rental unit on June 4 and 6, 2011, and spoke with the Tenant about the noise. According to the testimony of the Agents, the Tenant's two daughters were fighting very often. The Tenant asked the Landlord to write a letter informing a probation officer that the two daughters were no longer residing in the rental unit. The Landlord provided this letter. The Agents testified that several days after this letter the daughters returned to the rental unit and have been coming and going from the unit on an ongoing basis. There are other persons coming and going from the rental unit, and these people have been involved in the fights, arguing and noise as well.

The Agents submitted five different police file numbers which have been opened regarding the rental unit.

On June 16, 2011, the Landlord received another complaint about screaming and fighting noises coming from the unit. The Landlord issued the Tenant a warning letter that her tenancy was in jeopardy due to the ongoing noise.

On July 6, the Landlord received reports of screaming and banging noises coming from the rental unit after 11:30 p.m. The Landlord issued the one month Notice to End Tenancy to the Tenant on July 8, 2011.

Following this, on or about July 28, 2011, the police were again called to attend the rental unit. The Agents testified that the Tenant broke the bedroom window at the rental

unit on this occasion and the police attended. This instance also involved arguing and fighting in the lobby of the building.

The Landlord filed this Application following this incident.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I am satisfied that the Tenant, or persons permitted at the property by the Tenant, has significantly interfered with or unreasonably disturbed other occupants of the property. I further find the Tenant has put the Landlord's property at significant risk and caused extraordinary damage to the rental unit.

I am also 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.

I order that this tenancy be ended early and **I grant the Landlord an order of possession effective one day after service upon the Tenant.** This order may be enforced in the British Columbia Supreme Court.

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

This decision is final and binding on the parties, except as otherwise provided for under the Act, and 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: August 11, 2011.

Residential Tenancy Branch