



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened in response to an application by the Landlord pursuant to section 56 of the *Residential Tenancy Act* (the “Act”) for an Order ending tenancy early.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Landlord states that on August 5, 2011 at approximately noon, the Landlord and her mother went to the Tenant's door to serve the Tenant with a notice to end tenancy. The Landlord states that the Tenant became angry and pushed her to the ground. When the Landlord got up the Tenant then slammed the door in the Landlord's face. The Landlord states that other persons were at the scene and witnessed the incident and that the incident was reported to the police. The Landlord provided the police file number and investigating officer's name.

The Tenant agrees that on August 5, 2011, he was served with a notice to end tenancy, that a group of people were outside the unit at the time and that the Tenant ripped up the Notice. The Tenant states that no police officer has contacted him concerning a complaint of assault on the Landlord. The Tenant denies pushing the Landlord and states that he does not even recognize the Landlord's voice on the conference call. The Tenant states that he does not believe that the woman attending the hearing is the

Landlord and that his Landlords do not speak English. The Tenant states that he is shocked and surprised that the Landlord is also now accusing him of assault.

The Landlord states that the Tenant knows her and who she is as she has been down to the Tenant's suite on many occasions to ask him to not smoke. The Landlord states that on one occasion after being asked not to smoke the Tenant lit a cigarette and blew the smoke in her face. The Landlord states that the Tenant has made disparaging comments in the past about her family not being able to speak English and about the family being "immigrants" and "villagers". The Tenant states that extended family members live with her in the house that contains the Tenant's unit and that all of them are concerned about the Tenant's behaviour. It is noted that during the Hearing, the Tenant became very quickly enraged, his voice raised several levels and he started yelling. At the end of the Hearing the Tenant swore and called this Dispute Resolution Officer a vulgar name.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy and obtain an Order of Possession without issuing a one month notice for cause where the tenant has, inter alia, significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property and it would be unreasonable, or unfair to the landlord to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect. Although the Tenant vehemently denied assaulting the Landlord, the Tenant also denied recognizing the Landlord's voice or that the person on the line was even the Landlord. Further, the Tenant displayed a worrisome temper at the hearing by rapidly becoming angry to the point of yelling and swearing. The Landlord, on the other hand, provided a clear, calm and detailed description of the incident including the time of the incident, providing a police file number and the name of the investigating police officer.

On the whole, I prefer the evidence of the Landlord and find that the Landlord has, on a balance of probabilities, substantiated that the Tenant significantly interfered with and

unreasonably disturbed the Landlord by pushing the Landlord. Given the seriousness of this act, accepting the Landlord's evidence of the Tenant's ongoing behaviour, and considering the Tenant's demeanour at the Hearing, I also find that it would be unreasonable for the Landlord and her family to wait for a one month notice to end tenancy to take effect. Accordingly, I find that the Landlord is entitled to an Order of Possession.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order 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: August 22, 2011.

Residential Tenancy Branch