



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession to end a tenancy early.

The landlord participated in the hearing and provided affirmed testimony. She testified that the Notice of a Dispute Resolution Hearing was served on the tenants in person on September 20th, 2011. The tenants did not participate and the hearing proceeded in the tenant's absence.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The rental unit consists of an apartment in a multi-unit complex. Pursuant to a written agreement, the fixed term tenancy was based on a one year lease, starting on August 12th, 2011 and ending July 31st, 2012, at a rate of \$850.00 payable on the first of each month. The tenants paid a security deposit in the amount of \$425.00.

In her documentary evidence, the landlord provided 20 photographs of the common areas of the complex, showing red paint graffiti on the walls and doors with obscene language, broken glass to fire extinguishing access compartments, and heavily stained

carpets. The landlord provided a summary of events since the tenants moved in, specifically; loud parties; marijuana smell seeping into the complex; and five break-ins that occurred between the date the tenants moved in and September 25th, 2011. The landlord stated that the police was called each time, and that they stated that the tenants in unit 202 were the suspects.

The landlord testified that the other tenants on the 2nd floor of the complex have complained of the tenants' loud parties, of their use of the fire extinguishers and that their behaviour has terrorized them. The landlord stated that the tenants are hiding a friend from another person who has attended the building and also caused damages. She stated that they refuse to cooperate, and that on September 20th, 2011 they pepper sprayed the hallway, causing every other tenant to evacuate and one asthmatic tenant had to be taken to the hospital.

Analysis

I accept the landlord's undisputed testimony that the tenants were served with the Notice of Dispute Resolution in a proper manner pursuant to section 89 of the *Residential Tenancy Act*. I find that the tenants knew, or ought to have had knowledge of the date scheduled for this hearing.

Concerning an application for an order to end a tenancy early, Section 56(2) of the Act states:

The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the landlord's application,

- (a) The tenant or a person permitted on the residential property by the tenant has done any of the following:*

- (i) *Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- (ii) *Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
- (iii) *Put the landlord's property at significant risk;*
- (iv) *Engaged in illegal activity that*
 - (A) *Has caused or is likely to cause damage to the landlord's property,*
 - (B) *Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or*
 - (C) *Has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- (v) *Caused extraordinary damage to the residential property, and*

(b) It would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect.

Based on the landlord's undisputed testimony and documentary evidence, i am satisfied that the tenants have seriously jeopardized the health and safety or interest of the landlord or other occupants, and that they or their associates that they allowed in the building are engaged in illegal activity that has caused damage to the property, and that has adversely affected the other occupant's quiet enjoyment.

For the above noted reasons I find that the landlord is entitled to an order of possession.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant.

This 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: September 28, 2011.

Residential Tenancy Branch