



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This is the landlord's Application for Dispute Resolution, under section 56 of the Residential Tenancy Act (the "Act"), seeking an order to end the tenancy earlier than the tenancy would end if a Notice to End Tenancy were given under section 47 and to obtain an order of possession for the rental unit.

The landlord's agent, who is the property manager, the resident caretaker, the resident manager, the tenant and his legal counsel appeared and the hearing process was explained to the parties. Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and in documentary form prior to the hearing, and respond each to the other and make submissions to me.

Preliminary Issue:

The landlord testified that the service of the application and hearing package was attempted for three days, unsuccessfully. The landlord's agent stated that the documents were delivered on November 25, 2011, via posting on the door. Despite this, the tenant did not seek an adjournment of the hearing.

Issues(s) to be Decided

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

Background and Evidence

This tenancy is a single room occupancy, which commenced on September 10, 2010.

Monthly rent is \$425.00.

The affirmed testimony and supporting evidence of the landlord is that the tenant is putting the health, safety and lawful rights of other residents and the landlord at risk and has significantly interfered with and unreasonably disturbed other occupants and the landlord.

The resident caretaker testified that the tenant approached him on November 16, 2011, as he and a contractor were exiting the room next door to the tenant's room.

According to the caretaker, the tenant, who appeared to be intoxicated, began accusing him, the caretaker, of entering the tenant's room illegally.

The caretaker testified that he attempted to explain to the tenant that he was not in his room, but the room next door which was undergoing renovations. The tenant entered his rental unit.

Shortly thereafter, according to the caretaker, the tenant came out of his rental unit, went to the caretaker's suite, which is two doors away, and began making further accusations. Within 10 minutes, as the caretaker was going about his daily work, the tenant approached him again and started threatening him, suggesting that the caretaker should be aware that he might get hurt when walking outside. The caretaker stated that he reported the incident to his property manager.

Within the hour, according to the caretaker, the tenant once again followed the caretaker around and began the threats again. He stated that he noticed the knife on the tenant's back and feared for his life.

Later on, according to the caretaker, the tenant grabbed his mobile phone and punched him in the face. The caretaker testified that he also saw the tenant reach for his knife and that he tried to get away from the tenant.

The caretaker phoned the police and has not returned to work since the incident due to his fear.

In support of their application, the landlord supplied the written summary of events and photos from the residential property's security camera, depicting the events surrounding the incident presented by the caretaker.

In response, the tenant disagreed that he punched the caretaker, and that all he did was take the caretaker's phone. The tenant contended that he was not pulling the knife on the caretaker, only trying to keep the knife from slipping down his pants.

The tenant's legal counsel stated that disputed verbal testimony was not sufficient to warrant an early end to the tenancy, but rather a 1 Month Notice was more appropriate to allow the tenant adequate time to prepare his defense.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the *Act* allows a tenancy to be ended early without waiting for the effective date of a one month Notice to End Tenancy if there is evidence that the tenant has breached their obligations under the tenancy agreement or *Act* and it would be

unreasonable or unfair to wait for the effective date of a one month Notice to End Tenancy.

I find the landlord's photographic evidence to be compelling and persuasive, as these photos depict the tenant striking the caretaker and reaching for his knife as well as possessing the caretaker's phone. I find the tenant's statement that he was attempting to keep his knife from slipping lacked credibility. I also find that physical violence and threats made with weapons to be unacceptable.

I therefore find that the tenant has significantly breached the tenancy agreement and the *Act* by taking the actions he has. I accept that the tenant put the health, safety and lawful rights of other residents and the landlord at risk, and significantly interfered with and unreasonably disturbed other occupants and the landlord. Based on these conclusions I find that the landlord has established sufficient cause to end this tenancy.

Next I have considered whether it would be unreasonable or unfair to the landlord to wait for a 1 month Notice to End Tenancy to take effect. I have accepted the tenant put the health, safety and lawful rights of other residents and the landlord at risk, and significantly interfered with and unreasonably disturbed other occupants and the landlord. Based on these conclusions I find it would be unreasonable to wait for a one month Notice to End Tenancy to take effect. I grant the landlord's application to end this tenancy early.

Therefore I grant the landlord an **Order of Possession** effective **two (2) days** after it is served upon the tenant.

I am enclosing an Order of Possession with the landlord's Decision. This Order is a **legally binding, final Order**, and may be filed in the Supreme Court of British Columbia should the tenant fail to comply with this Order of Possession.

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: November 30, 2011.

Residential Tenancy Branch