



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ET / OP

Introduction

This hearing was scheduled in response to the landlord's application for an early end of tenancy / and an order of possession. Both parties participated in the hearing and gave affirmed testimony. Those present at the hearing for the landlord claimed that the agent representing the tenant at the hearing was actually the tenant himself.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement in evidence for this tenancy which began in October 2010. The unit is located downstairs in a house, within which other tenants rent the upstairs main floor. It is understood that monthly rent is \$1,000.00 and that a security deposit of \$500.00 was collected.

Documentary evidence submitted by the landlord includes letters / e-mail from others living in the house where the rental unit is located. Set out in the letters are descriptions of various incidents involving the tenant. Allegations include verbal aggression and physically intimidating behaviour over an extended period of time on the part of the tenant. On occasion police have been called. The authors of letters / e-mail were present to testify at the hearing.

Documentary evidence submitted by the tenant includes a letter from a neighbour, in which the neighbour describes ongoing "problems with noise" from the tenants renting the upstairs main floor of the house.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 28 of the Act speaks to **Protection of tenant's right to quiet enjoyment**, and provides as follows:

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [*landlord's right to enter rental unit restricted*];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Section 56 of the Act addresses **Application for order ending tenancy early**, and provides in part as follows:

56(2) 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 case of a 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;

(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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

Based on the documentary evidence and testimony, I find on a balance of probabilities that the landlord has established entitlement to an early end of tenancy and an order of possession. Specifically, I am persuaded that the tenant has “significantly interfered with or unreasonably disturbed” other occupants, and has “seriously jeopardized the health or safety or a lawful right or interest” of other occupants.

Conclusion

I hereby issue an **order of possession** in favour of the landlord effective not later than **two (2) days** after service on the tenant. This Order must be served on the tenant. 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: January 13, 2012.

Residential Tenancy Branch