



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

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 the tenancy early and an Order of Possession.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence by posting a copy on the Tenant’s door in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing.

The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an early end of tenancy and an Order of Possession?

Background and Evidence

The tenancy began on July 15, 2011. On or about February 27, 2012, the Tenant’s son moved into the unit. Prior to this, the Tenant’s son had been evicted from a neighbouring unit for non payment of rent. Since this date, the Landlord states that people have been constantly attending the unit to purchase drugs from the Tenant’s son. The Landlord identifies these people as having been previously witnessed by the Landlord using crack pipes in the building parking lot and side of the property. The Landlord’s witness (the “Witness”) states that he is another tenant in the building and works for the Landlord on maintenance. The Witness states that he has seen the

Tenant's son, while on the property, take money in exchange for packages. The Witness states that some of the persons coming to the Tenant's unit are very large men and that the other tenants have been afraid to come forward with complaints out of fear of retaliation.

The Landlord states that on March 6, 2012, a tenant witnessed a man tell the Tenant's son that if \$4,000.00 was not paid by April, the man would come back and "light up" the building. The Witness states that this is a phrase used when guns are involved. The Landlord states that this incident was reported to the police by the Landlord and that the tenant who witnessed the incident provided a statement to the police. This tenant did not provide a statement for this Hearing out of significant fear of being identified and facing retaliation.

The Landlord supplied a petition signed by other tenants in the building. The Witness states that since this incident, despite their fear, these tenants have come forward due to the serious threat of the use of guns. The Witness states that the Tenant is a wonderful elderly person who clearly loves the son but that they are concerned that the Tenant is being subjected to "elder abuse". The Landlord states that the Tenant signed an agreement on March 1, 2012 that the son would vacate the unit by March 15, 2012 but that this has not occurred. The Landlord states that the Tenant has since informed the Landlord that the Tenant will move out of the unit with the son by March 28, 2012.

The Landlord requests an end to the tenancy and an Order of Possession to be effective immediately.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier than provided by an application to end a tenancy for cause and to obtain an Order of Possession. The landlord must show that:

- (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.

Upon consideration of the undisputed evidence before me, I am satisfied that the Tenant's son's activities have seriously jeopardized the safety of the other tenants and the Landlord. I also find that given the nature of the threat made, it would be *unreasonable* to require the Landlord and other tenants to wait for a one month notice ending the tenancy to take effect. In light of the age of the Tenant and noting the concern for the well-being of the Tenant, I find that it would not be reasonable to end the tenancy sooner than the Tenant has indicated as a move-out date. Accordingly, I order that the tenancy ends March 28, 2012 and I grant the Landlord an Order of Possession effective 1:00 p.m. March 31, 2012.

As the Landlord has been successful with the application, I find that the Landlord is entitled to recovery of the \$50.00 filing fee and I order the Landlord to retain this amount from the security deposit.

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.

I Order the Landlord to retain \$50.00 from the Tenant's security deposit.

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: March 23, 2012.

Residential Tenancy Branch