



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an early end of the tenancy and an Order of possession.

The agent for the landlord provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were posted to the tenant's door on March 21, 2012; a proof of service document indicating that the operations manager was present as a witness to service by M.H., was supplied as evidence. A photograph of the hearing package, taped to the door, was also provided as evidence.

A staff member was present when the tenant entered his unit and removed the hearing package from the door of the unit.

The tenant has since talked to the landlord's agent about the hearing and was told the landlord was seeking an Order ending the tenancy.

These documents are deemed to have been served in accordance with section 89 of the Act; however, the tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?

Is the landlord entitled to an Order of possession?

Background and Evidence

On March 17, 2012, an incident occurred at the rental unit resulting in the Victoria Police Department Emergency Response Team having to attend and evacuate all residents of the building. The evacuation lasted from approximately midnight until 4:30 a.m. The tenant was in his unit firing shots from a gun; it is alleged that he discharged a firearm ten to twelve times.

A copy of the landlord's Incident Report was supplied as evidence of the event; as were copies of newspaper articles describing the episode. There were ten to twelve bullet holes in the walls, the bedroom door was broken and the water bed was leaking, which

damaged the ceiling and carpet of the unit below. The tenant shot a hole in his waterbed.

The occupant of the lower unit wrote a statement which was supplied as evidence. At approximately 11:30 p.m. this occupant heard a "huge bang" from the upper unit; 20 minutes later the police came to his door, to evacuate the occupant. The occupant reports that his ceiling was leaking into his unit and that he now does not feel secure.

The landlord stated that other occupants of the building are now uneasy and frightened.

The landlord stated they will provide assistance, as they can, to the tenant, but require an Order of possession as soon as possible, as they must ensure the safety of all other occupants. The tenant is in the process of vacating the unit.

Analysis

In order to establish grounds to end the tenancy early, the landlord must not only establish that they have cause to end the tenancy, but that it would be unreasonable or unfair to require the landlord to wait for a Notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the testimony of the landlord and the evidence before me, I find that the landlord met that burden.

In relation to sufficient cause, I find that the disturbance created by the tenant, by allegedly discharging a firearm in the unit, clearly placed other occupants at potential risk of serious harm.

Secondly, in the circumstances I find it would be unreasonable and unfair to require the landlord to wait for a Notice to end the tenancy under s. 47. While the tenant is currently in the process of moving it is reasonable that the landlord seek authority to end the tenancy immediately without the need to wait until the end of April for a 1 Month Notice to take effect. This will allow the landlord to ensure compliance with their responsibilities under the Act.

Therefore, I find that the landlord is entitled to an Order for possession; effective immediately.

Conclusion

The landlord has been granted an Order of possession that is effective **immediately**. This Order may be served on the tenant, filed with 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: March 30, 2012.

Residential Tenancy Branch