



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ET

Introduction

This application was brought by landlord on June 22, 2012 seeking an Order of Possession to end the tenancy early under section 56 of the *Act*. This section permits such applications in situations where it would be unreasonable for the landlord to wait for an order under section 47 of the *Act* which requires a Notice to End Tenancy effective on a minimum of one month following service.

The landlord advised that this tenancy was scheduled for another hearing on the tenant's application to have set aside a Notice to End Tenancy for cause dated June 8, 2012 to be heard one hour later than the present hearing.

The landlord stated that he had attempted to have both matters heard together but was advised that, because they are based on separate sections of the *Act*, they could not be combined.

Despite having been served with the Notice of Hearing sent by registered mail on June 26, 2012, the tenant did not call in to the number provided to enable her participation in the telephone conference call hearing. Therefore, it proceeded in her absence.

Issue(s) to be Decided

Are the circumstances which have caused the landlord to seek an end to the tenancy of sufficient urgency to warrant the issuance of an Order of Possession under the more stringent requirements of section 56 of the *Act*?

Background and Evidence

This tenancy began on February 1, 2012 under a fixed term rental agreement set to end on January 31, 2012. Rent is \$1,300 per month and the landlord holds a security deposit of \$650 paid at the beginning of the tenancy.

As a matter of note, the first-named tenant on the application does not reside in the rental unit but is the mother and guarantor of the other tenant. The landlord stated that another party stays with the tenant as an occupant.

During the hearing, the landlord gave evidence that the application for an Early End of Tenancy had been made after the tenant had failed to respond to a number of warnings and the Notice to End Tenancy for cause, and breaches had, in fact, escalated.

The landlord submitted and elaborated on the following documents in support of the request for the Order of Possession:

May 14, 2012 – Notice of Disturbance cited constant loud music, all night traffic, disturbances and general disregard for neighbors. The landlord submitted a explanatory staff report stating that had received a call at 1 a.m. that day from a police officer advising of a complaint of noise emanating from the rental unit and asking to be admitted to the building. At 6:45 a.m., the manager received a complaint of loud music and shouting from the rental unit. He attended and could hear arguing inside but, when no one responded, he requested police attendance. He encountered an apparently homeless man leaving who said he had been partying with the tenant. Another tenant reported the man trying doors in an effort to find his way out of the building. Police attended from 7:30 a.m. to approximately 9 a.m.

May 31, 2012 – The landlord submitted a letter from another tenant stating they had been awakened that at 2 a.m. that morning by the loud shouting of profanities which followed an hour of loud tapping, coming from the subject rental unit.

June 5, 2012 - Notice of Disturbance cited constant loud music, all night traffic, disturbances and general disregard for neighbours.

June 8, 2012 - Notice of Disturbance cited constant loud music, all night traffic, disturbances and general disregard for neighbours.

June 16, 2012 - Notice of Disturbance cited constant loud music. The landlord submitted a staff report noting that he had been called at 11:30 p.m. by a frightened tenant say a man was trying to “crawl on the building from outside.” The building manager found the man at the front door trying to get someone to let him into the building to assist his wife who called to say she could not get out of the building. The manager stated the woman and a man she was with, both intoxicated, were lying on the stairs between the second and third floors. The man told the manager that the tenant, with whom they had been partying, had let them in to the subject rental unit, but went out, and they were subsequently told to leave by her co-occupant. The manager called an ambulance for the female.

June 23, 2012. The landlord submitted a copy of a letter of complaint signed by 13 other tenants which referred to the incidents to that time and implored the landlord to hasten the eviction of the subject tenant.

June 26, 2012. At 1:40 a.m., the manager was awoken by a tenant advising him the front door glass was broken and that police wished to speak with him. Police officers advised him that they were patrolling and saw a female shouting, then breaking into the building through the front door glass. They arrested her in the subject rental unit for vandalism and other tenants, who had witnessed the events, identified the subject tenant as the person in question.

Analysis

Section 56(2)(a)(iv)(A) of the *Act* authorizes the director’s designate to issue an Order of Possession in circumstances in which a tenant , “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.”

On the evidence before me, I find no question that the landlord is entitled to an Order of Possession under section 56 of the *Act* and issue such order to take effect two days from service of it on the tenant.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, effective two days from service of it on the tenant.

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: July 05, 2012.

Residential Tenancy Branch