



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, seeking an order to end the tenancy early and receive an order of possession.

One of the Landlords appeared, gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified he served the Tenant with the Notice of this hearing and the Application by posting on the door of the rental unit, on August 7, 2012. The Tenant did not appear. I find the Tenant has been duly served in accordance with the Act.

Issues(s) to be Decided

Are the Landlords entitled to end the tenancy early and obtain an order of possession?

Background and Evidence

The subject rental unit property is in the basement of the Landlords' residence.

The Landlord testified that the Tenant had not moved into the rental unit, and instead allowed someone else, most likely the Tenant's son, to move into the rental unit.

The Tenant has not paid rent and a 10 day Notice to End Tenancy was issued. The Landlords also issued a one month Notice to End Tenancy for cause, as the Tenant, or a person allowed into the property by the Tenant, has been smoking in the rental unit, contrary to the tenancy agreement.

On August 6, 2012, the Landlords went to speak with the occupant at the rental unit because of the smoking. The occupant had several people in the rental unit smoking and having a party. The occupant got mad at the Landlords and pulled out a large bottle of bear spray or mace and threatened the Landlords.

The Landlords felt very threatened and left immediately and called the police. The occupant and other people in the rental unit had already left the rental unit by the time the police arrived. The Landlord testified that the police informed him to call 911 immediately if they saw the occupant return to the rental unit.

The Landlord testified that the Tenant or the occupant has been removing items from the rental unit but have not completely moved out.

Analysis

Based on the foregoing, the uncontradicted evidence and testimony, and on a balance of probabilities, I find and I am satisfied that the Tenant, or a person permitted on the property by the Tenant, has significantly interfered with and unreasonably disturbed the Landlords and has seriously jeopardized the health or safety of the Landlords.

I find and I am satisfied that it would be unreasonable and unfair to the Landlords to wait for a notice to end tenancy under section 47.

Therefore, pursuant to section 56 of the Act, I grant the Landlords an order of possession for the rental unit effective **two days after service** on the Tenant, and I grant and issue the order in this form. This order may be enforced through the British Columbia Supreme Court.

The Landlords may deduct **\$50.00** from the security deposit to recover the filing fee for the Application and must deal with the balance of the security deposit in accordance with the Act.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: August 17, 2012.

Residential Tenancy Branch