



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 landlord's application pursuant to section 56 of the *Residential Tenancy Act* (the *Act*) for an early end to this tenancy and an Order of Possession. The tenant did not attend this hearing, although I waited until 11:17 a.m. in order to enable him to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. Landlord representative DD (the landlord) testified that he posted a copy of the landlord's dispute resolution hearing package, including the written evidence for this hearing, on the tenant's door at 1:45 p.m. on September 20, 2012. He gave sworn testimony that one of the landlord's contractors, ZC, witnessed him post these packages at that time and date. In accordance with sections 89 and 90 of the *Act*, I am satisfied that the tenant was deemed served with the dispute resolution hearing and evidence packages on September 23, 2012, the third day after their posting on his door.

Issues(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession

Background and Evidence

This subsidized periodic tenancy began on January 1, 2009. Monthly rent at that time was set at \$967.00, with the tenant then paying the economic rent of \$390.00. The tenant's portion of the current monthly rent is \$320.00. The landlord continues to hold the tenant's \$300.00 security deposit paid on January 1, 2009.

The landlord submitted documentation to support the landlord's claim that the landlord's September 17, 2012 annual inspection of this rental unit revealed the presence of a sophisticated marijuana grow operation in this rental unit. The landlord also provided written evidence that the RCMP executed a search warrant two days after that inspection to remove this grow operation. The landlord testified that although the tenant has a licence to grow a maximum of 25 medicinal marijuana plants (although not at this location, the landlord maintains), the RCMP removed a total of 171 of these plants from this rental unit. Both of the landlord's representatives in attendance at the hearing gave sworn testimony to confirm the contents of their written statements submitted into

evidence. They said that the tenant's growing operation was in the tenant's laundry room and one of the bedrooms in this two bedroom rental unit.

The landlord requested an early end to this tenancy due to the illegal activity being conducted from the rental unit, the scope of that activity, the impact on this rental building and its occupants, and the problems associated with repairing the damage done by the tenant and in obtaining insurance for this rental building. The landlord testified that the landlords will need to retain an expert to certify that the growing operation has not caused mould or health issues in this rental unit and building. The landlord testified that this tenant has been involved in a number of other growing operations and that he realized that if the landlord found him using the premises as a growing operation again that the landlord would be seeking an end to his tenancy.

Analysis

Section 56 of the *Act* enables a landlord to make an application to end a tenancy early without service of a Notice to End Tenancy when it would be unreasonable and unfair to both the landlord and the other occupants of the residential property to wait for a notice to end tenancy for cause to take effect.

Based on the undisputed evidence of the landlord, I find that despite previous warnings the tenant has continued his efforts to use this rental unit as a marijuana growing operation. The size and scale of this operation and the associated problems caused for the landlord and occupants in this rental building lead me to conclude that it would be unreasonable and unfair to the landlord and the other tenants in this rental building to wait for a notice to end tenancy for cause to take effect. As such, I find that the landlord is entitled to obtain an early end to tenancy pursuant to section 56 of the *Act* and issue an Order of Possession to the landlord.

Conclusion

I allow the landlord's application to end this tenancy early and grant the landlord a 2 day Order of Possession. This Order may be filed in the Supreme Court 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: October 01, 2012

Residential Tenancy Branch