



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code:

ET

Introduction:

This is the Landlords' application for an early end to the tenancy and an Order of Possession.

The Landlords' agents and witnesses gave affirmed testimony at the Hearing.

The Landlords' agent GP testified that on August 21, 2012 at 12:45 p.m., he provided the Notice of Hearing documents and a One Month Notice to End Tenancy for Cause to the Tenant's adult neighbour, who lives in suite 301. The Landlord's agent SA stated that the Tenant's neighbour and the Tenant were together on a daily basis and that they were often in each others' suites. The Landlord's agent SA testified that she knows that the Tenant received the Notice of Hearing documents because he subsequently filed an application to cancel the One Month Notice which was in the same package.

Pursuant to the provisions of Section 71(2)(c) of the Act, I find that the Tenant was sufficiently served with Notice of today's Hearing. The Tenant did not sign into the teleconference and the Hearing continued in his absence.

Issue to be Determined:

Have the Landlords shown that there is cause to end this tenancy and that it would be unreasonable or unfair to wait for a one month Notice to End Tenancy under the *Act* to take effect?

Background and Evidence:

The Landlord's agent MA testified that the rental property houses elderly people. He stated that the Tenant allows street people and drug traffickers into the rental property and that one of the Tenant's guests assaulted an elderly woman. The Landlord's agent MA stated that the Tenant lets people into the building on a daily basis and that these

guests cause disturbances in the building. The Landlord's agent MA testified that the Tenant and his guests also provide others with key fobs or block the entry door locks with paper and other items, causing the area to be unsecured. He stated that this behaviour has been caught on surveillance cameras and that key fobs used for entry have been tracked electronically back to the Tenant.

The Landlord's agent stated that the Tenant has been warned about disturbing other occupants; not to provide others with his key fob; and not to prop open the entry door or the fire door, but the Tenant and his guests continue to ignore those warnings. He stated that the problems are escalating and that an elderly woman was assaulted by one of the Tenant's guests.

The Landlord's witness AB is an elderly woman who lives on the same floor as the Tenant. She stated on August 9, 2012, she came home and noticed the fire door had been propped open by a lady's shoe. The Landlord's witness took photos of the shoe and the paraphernalia that was strewn about the fire door. She stated that as she was taking the pictures, a young woman came up the stairwell, swearing at her, and assaulted her, pushing her backwards into the hallway.

The Landlord's witness AB stated that she had seen the woman who assaulted her before. She said the woman was often in the hallway on her way to and from the Tenant's suite and the Tenant's neighbour's suite, 301. She testified that she called the police, who came and arrested the woman. She stated that the police told her that the woman would be given an order to stay away from the building, but that she still comes to visit the Tenant's suite. The witness testified that she was frightened and felt unsafe in her own home. She stated that she has lost sleep because of constant noise coming from the Tenant's suite from midnight to 6:00 a.m. in the morning. The witness testified that she is taking medication for anxiety due to the intimidating people who frequent the Tenant's suite. The witness stated that she pays extra money for meals, but that she no longer goes down to the dining room for dinner because she is afraid to walk into the hallway in case she meets the Tenant's guests. She stated that if nothing is done, she will have to move because her health is deteriorating.

The Landlord's witness GL testified that he used to live on the same floor as the Tenant and then moved into the suite below the Tenant's suite. When he was living on the same floor as the Tenant, his suite was directly above the entrance, across from the elevator. He stated that the Tenant's guests come and go all night, buzzing the door, having loud conversations on the intercom and slamming doors. He testified that there was also constant coming and going from the Tenant's suite to 301. The Landlord's witness GL stated this TV monitor is hooked up to view the front door and intercom and that he can see the Tenant's guests on his TV monitor, so he knows who they are. The

Landlord's witness testified that he is afraid to go into the hallway after 10:00 p.m. because he is intimidated by the Tenant's guests and their loud noise and profanity. The Landlord's witness stated that he has seen the Tenant's guests using fobs to enter the building.

Analysis:

In making an application for an early end to this tenancy the landlord has the burden of proving that there is cause for ending the tenancy, such as: the Tenant is or a guest of the Tenant's is unreasonably disturbing other occupants; engaging in illegal activity that causes damage or affects quiet enjoyment of other occupants; or seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the Landlord's property at significant risk. The Landlord must also provide sufficient evidence that it would be unreasonable or unfair to the Landlord or other occupants to wait for a one month Notice to End Tenancy for cause under Section 47 of the *Act* to take effect.

I find that the Landlord did not provide sufficient evidence that there is illegal activity (for example drug dealing) occurring in the Tenant's suite.

However, I find that the Landlord provided sufficient evidence that the Tenant, or guests of the Tenant, are seriously jeopardizing the safety of the other occupants by leaving the fire doors ajar and leaving the entry doors insecure by jamming them with materials. I am also satisfied, based on the undisputed affirmed testimony of the Landlord's agents and its witness AB, that a female guest of the Tenant's pushed AB, an elderly woman, on August 9, 2012, thereby unreasonably disturbing her and seriously jeopardizing her health and safety.

I accept the Landlord's agents' and witness's testimony that the incidents are escalating and therefore I am satisfied that the Landlord has proven that it would be unreasonable or unfair to the Landlord and the other occupants to wait for a one month Notice to End Tenancy for cause to take effect.

I hereby provide the Landlords an Order of Possession effective **immediately**.

Conclusion:

I hereby provide the Landlords an Order of Possession **effective immediately**. This Order must be served on the Tenant and may be filed in 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: September 06, 2012.

Residential Tenancy Branch