



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: ET

Introduction:

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

The Landlord and her witness gave affirmed testimony at the Hearing.

The Landlord testified that on November 19, 2010, she mailed the Notice of Hearing Documents and copies of the Landlord's evidence, by registered mail, to the Tenant at the rental unit. The Landlord provided copies of the registered mail receipt and tracking numbers in evidence. The Landlord stated that the Tenant did not pick up the registered mail package.

Based on the affirmed testimony and documentary evidence provided by the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents and copies of the Landlord's evidence in accordance with the provisions of Section 89(1)(c) of the Act. Service in this manner is deemed to be effected 5 days after mailing the documents. The Tenant did not sign into the teleconference and the Hearing continued in her absence.

Issue to be Determined:

Has the Landlord 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:

In this Decision, I have referred only to the relevant testimony with respect to the Landlord's application.

This month-to-month tenancy began in February, 2011. Monthly rent is \$850.00, due on the first day of each month. The rental unit is the basement suite of a house. The Landlord and her husband live in the upstairs suite.

The Landlord testified that on November 12, 2012, the Tenant was acting in a bizarre manner and that she assaulted the Landlord in the Landlord's home. Police were called and the Tenant was arrested and removed from the rental property.

The Landlord's witness is a police officer. She stated that she was in the area of the rental property on November 12, 2012, when she heard an announcement that an officer was in trouble at the rental property. The witness went to the rental property and observed the Tenant hand-cuffed and on the ground. She stated that the Tenant was acting in an unreasonable manner and was refusing to get up off the ground. She and the other officer were able to manoeuvre the Tenant into the police vehicle. The witness stated that the Tenant was agitated and started yelling and kicking the police vehicle. The witness stated that the Tenant was arrested under the Mental Health Act and was taken to hospital.

The Landlord also provided a written statement of another witness who was present at the Landlord's home on November 12, 2012. The statement records in detail the Tenant's behaviour, including the Tenant's assault on the Landlord. The statement indicates that the Tenant said, "I have come to beat the devil out of you. I am God and have the power to eliminate abuse against women and children in the world." In her statement, the witness writes, "Being a part of this situation was very scary, and has left me with a sense of dread for the safety of my friends."

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 unreasonably disturbing other occupants or seriously jeopardizing the health and safety of the landlord. The Landlord must also prove 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.

Based on the undisputed affirmed testimony and evidence of the Landlord and her witness, I am satisfied that the Landlord has proven that there is cause to end the tenancy and that it would be unreasonable or unfair to the Landlord and her husband to wait for a one month Notice to End Tenancy for cause to take effect. I find that the Tenant has unreasonably disturbed the Landlord by uttering threats to beat her and by assaulting her on November 12, 2012.

I hereby provide the Landlord with an Order of Possession effective **2 days after service of the Order upon the Tenant.**

Conclusion:

I hereby provide the Landlord an Order of Possession **effective two days from service of the Order upon the Tenant**. This Order 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: November 29, 2012.

Residential Tenancy Branch