



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened in response to an application by the Landlord for an early end of tenancy and an Order of Possession pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

The Landlord states that the application for dispute resolution and notice of hearing was served on the Tenant by mailing it express post. The Landlord states that delivery of this mail occurs only after the addressee of the mail signs for its receipt. Given this evidence, in particular, the evidence requiring the signature of the Tenant, I find that the Landlord has served the Tenant in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The tenancy began on May 5, 2012. From the onset of the tenancy, the Tenant has had ongoing and frequent parties until early in the mornings and has been fighting, yelling and causing loud disturbances such that the police have had to attend the unit on several occasions. The noise and disturbance has been so great that the upper tenant gave notice and ended the tenancy within a couple of months of the Tenant moving into the unit. The new tenant in the upper unit has also become alarmed and worried for the safety of her two young children. The Tenant has also caused damage to the unit by burning a wall by the stove, causing damage to the carpet, breaking a window lever and

replacing a door to the unit. The Landlord cannot wait for a one month notice to take effect as there is concern for greater damage to the unit and the loss of the upper tenant. Further, on the evening of October 19, 2012, the Tenant caused a disturbance, left in an unlicensed van and upon return to the unit barricaded himself in the unit as the police had followed the Tenant back to the unit. The Tenant did not give himself up to the police until 5:00 a.m. the next morning, causing the upper tenants extreme fear.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier than it would end if the landlord issued a 1 Month Notice to End Tenancy for Cause and obtain an Order of Possession in certain circumstances. It is not necessary for the landlord to issue a 1 Month Notice; however, the landlord must show that:

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
 - (iii) put the landlord's property at significant risk;
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) 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, or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
 - (v) caused extraordinary damage to the residential property, and
- (b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 *[landlord's notice: cause]* to take effect.

Upon consideration of the undisputed evidence before me, I am satisfied that the Landlord's upper tenant faces serious jeopardy and that it would be unreasonable or unfair to the Landlord to wait for a 1 Month Notice to take effect. Accordingly, I find that the Landlord is entitled to an Order of Possession. The tenancy therefore ends and the Tenant must vacate the rental unit.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the 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 06, 2012.

Residential Tenancy Branch