



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the "Act") seeking an order to end the tenancy early and receive an order of possession, and to recover the filing fee.

The agent for the landlord and two witnesses for the landlord attended the hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and to make submissions to me.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered. The agent provided affirmed testimony that the Notice was served on the tenants by registered mail on October 24, 2012. The landlord provided a registered mail receipt with tracking numbers as evidence and confirmed that the name and address matched the name of the tenants and their address of the rental unit. The agent confirmed that the registered mail packages were not returned. Documents sent by registered mail are deemed served five days after mailing under the *Act*. I find the tenants were duly served on the fifth day after mailing, in accordance with the *Act*.

Issue to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession?

Background and Evidence

The tenancy began on August 1, 2011. Monthly rent in the amount of \$850.00 is due on the first date of each month. A security deposit of \$425.00 was paid at the start of the tenancy.

The landlord has applied for an order to end the tenancy early based on the male tenant or a person permitted on the residential property by the male tenant significantly

interfering and unreasonably disturbing other occupants, and engaging in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant.

A witness for the landlord testified that the police have attended seven times in the past month, including twice the day before this hearing. The agent testified that the police attended two days ago with the agent for a scheduled rental unit inspection, where the police found a scale that the police described as drug paraphernalia. The agent also found a small bag which the police advised her had drug residue inside it. The agent stated that the police officer was unable to call into the hearing due to their busy schedule. At the time of the rental unit inspection, the agent stated that the unit was found unsecured. The agent confirmed that the male tenant was in the rental unit in the past few days.

A second witness, a neighbour who lives below the rental unit, stated that she feels afraid of the male tenant and feels uneasy living in the building as a result of the male tenant. The witness testified that there is constant noise, really loud music and that her quiet enjoyment is being impacted as a result of the tenants. The witness described the male tenant or his associates vomiting over their balcony onto her balcony and that blood was dripping down from the tenants' balcony in another incident earlier in October 2012. The witness denied ever being directly threatened by the male tenant, however, stated that her daughter and her son's girlfriend have been spat on by the male tenant.

The agent provided a list of 12 vehicles that were recorded going to and from the rental unit as part of their block watch program. The agent stated that she believes the frequent visits to the rental unit by the people in the noted vehicles, support that there is illegal drug activity taking place in the rental unit. The agent also referred to the scale and small bag noted by the police two days ago during their rental unit inspection.

The agent also testified that the male tenant and his associates set off fireworks and that fireworks are illegal in their area. A copy of the local bylaws was submitted as evidence to support the testimony of the agent.

Analysis and Conclusion

Based on the documentary evidence and the undisputed testimony provided by the agent, and two witnesses during the hearing, and on a balance of probabilities, **I find** and I am satisfied the tenants or a person permitted on the residential property by the tenants has significantly interfered with and unreasonably disturbed the landlord or other occupants of the residential property. In addition, **I find** that there is evidence to

support that the male tenant or a person permitted on the residential property by the male tenant has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety and physical well-being of another occupant of the residential property.

I am also satisfied that it would be unreasonable and unfair to the landlord or the other occupants to wait for a notice to end tenancy under section 47 of the *Act*.

Therefore, pursuant to section 56 of the *Act*, **I grant** the landlord an order of possession for the rental unit effective not later than **two (2) days** after service of the Order on the tenants. This order may be enforced through the Supreme Court of British Columbia.

As the landlord was successful in their application, **I find** the landlord is entitled to the recovery of the filing fee in the amount of \$50.00. Therefore, **I grant** the landlord a monetary order pursuant to section 67 in the amount of **\$50.00**. This order must be served on the tenants and may be filed in the Provincial Court (Small Claims) 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 *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: November 08, 2012

Residential Tenancy Branch