



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application for dispute resolution, under section 56 of the Residential Tenancy Act (the "Act"), seeking an order to end the tenancy earlier than the tenancy would end if a Notice to End Tenancy were given under section 47 and to obtain an order of possession for the rental unit.

The landlord and his agent appeared and gave affirmed testimony.

The landlord and his agent testified that they served the tenants with the Application for Dispute Resolution and Notice of Hearing (the "Hearing Package") by posting it on the tenants' door on December 1, 2012.

I find the tenants were served Notice of this hearing in a manner complying with section 89 of the Residential Tenancy Act (the "Act") and the hearing proceeded in the tenants' absence.

The landlord was provided the opportunity to present his evidence orally and to refer to his relevant documentary submissions.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary matter:

The landlord's evidence was not in the hearing file at the time of the hearing; however, the landlord said that the tenants were served with their evidence on December 1, 2012, and that they attempted numerous times to submit evidence to the Residential Tenancy Branch ("RTB"). The landlord stated that they were instructed that they could not fax their evidence. While not specifically making a determination as to whether or not this occurred, I did allow the landlord to fax his evidence after the hearing.

The landlord was informed that I would dismiss his application in the event the evidence was not received.

During the hearing, the landlord read from his evidence and after the hearing, the landlord's evidence was received.

Issues(s) to be Decided

Should the tenancy end early and an Order of Possession be granted to the landlord?

Background and Evidence

The landlord testified that the tenant is putting the health, safety and lawful rights of the landlord at risk and has put the landlord's property at significant risk.

The affirmed testimony of the landlord is that the tenants are engaging in drug and gang activity, to such an extent that the police have attended the rental unit on a daily or near daily basis due to the complaints of neighbours. The landlord said that he was not aware of this activity until being informed of such by the police, who advised the landlord to have the tenants evicted.

Included in the police report submitted by the landlord was the following:

1. A car in the driveway of the rental unit was a vehicle associated with a male with drug and gang activity;
2. Police were advised that a large number of people and vehicles were coming and going from the rental unit;
3. Police observed three people coming out of the rental unit board a stolen vehicle and depart the area;
4. A known drug addict/property offender was seen leaving the house; and
5. Numerous people known by police to be active in the local drug and property crime trade have been observed coming and going from the residence.

The police report also said police resources are consistently having to be redirected to deal with the occupants of the rental unit and that there was a safety and security concern for the neighbourhood.

Analysis

Section 56 of the *Act* allows a tenancy to be ended early without waiting for the effective date of a 1 Month Notice to End Tenancy if there is evidence that the tenant has breached their obligations under the tenancy agreement or *Act* and it would be unreasonable or unfair to wait for the effective date of a 1 Month Notice to End Tenancy.

In the absence of the tenants to provide any refutation of the landlord's application, I prefer the evidence of the landlord over the tenant.

Based on a balance of probabilities, I accept the undisputed evidence of the landlord and I find that the tenants have significantly breached the tenancy agreement and the *Act*. I accept that the tenants put the health, safety and lawful rights of the landlord at

risk and put the landlord's property at significant risk by conducting gang and drug activity, as shown by the police report. Based on these conclusions I find that the landlord has established sufficient cause to end this tenancy.

I am satisfied that it would be unreasonable and unfair to the landlord, to wait for the 1 Month Notice to End Tenancy to take effect. I grant therefore the landlord's application to end this tenancy early.

I find that the landlord is entitled to and I therefore grant an order of possession for the rental unit effective two days after service of the order upon the tenants.

This final, legally binding order of possession is enclosed with the landlord's Decision. Should the tenants fail to vacate the rental unit pursuant to the terms of the order, this order may be filed in the Supreme Court of British Columbia for enforcement.

Conclusion

The landlord is granted an order of possession for the rental unit.

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* and is being mailed to both the applicant and the respondent.

Dated: December 07, 2012.

Residential Tenancy Branch