



Dispute Resolution Services

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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, seeking an early end to the tenancy and an order of possession for the rental unit.

Both parties appeared at the hearing, although the Tenant attended late. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

Preliminary Matters

The Tenant appeared in the hearing late and stated he had retained legal counsel, but he would not disclose the name of legal counsel. I asked the Tenant if his legal counsel was present and the Tenant said no. He refused to name the counsel.

The Tenant then announced he was digitally recording the hearing. I explained to the Tenant that private recordings of a hearing are not permitted, that hearings may only be recorded by using an official court reporter, and that a party desiring an official recording must arrange for the court reporter in advance of the hearing. For reference, Rule 9 of the Rules of Procedure describes the recording of a hearing.

The Tenant was also acting in an appropriate manner, as he displayed a rude and flippant attitude toward the proceeding. The Tenant was cautioned that he must cease recording and behave appropriately, or he would be excluded from the hearing. The Tenant then acted in a taunting fashion asserting that since he called into the meeting we were unable to disconnect him, or words to that effect.

Despite repeated requests, the Tenant refused to cease the recording of the hearing. I cautioned him again and he stated he would have to call into the hearing again in order to cease the recording.

The Tenant did not disconnect or call into the hearing again and remained on the line.

The Agent for the Landlord questioned whether or not the Tenant had ceased recording, as he did not hear the Tenant disconnect and call back into the hearing.

I asked the Tenant again if he would cease recording and he refused again. He again began speaking in a rude and inappropriate fashion and then he testified he was going to vacate the rental unit in any event.

After having given the Tenant these warnings and because the Tenant repeatedly refused to comply with my directions, was not ceasing recording, and was acting rude and inappropriately, I determined that he should be excluded from the hearing. I disconnected him from the hearing and the hearing proceeded in his absence, pursuant to section 8.7 of the Rules of Procedure.

Issue(s) to be Decided

Has the Tenant breached the Act, entitling the Landlord to an early end of the tenancy and an order of possession?

Background and Evidence

The Agent for the Landlord testified that this had been a long term tenancy, starting in 1996. The Agent explained he did not have many problems with the Tenant aside from periodic noise complaints which increased beginning in the summer of 2011, when the police attended for a noise disturbance due to loud music.

The Agent for the Landlord testified that events had recently escalated at the building and had become serious, with several renters expressing their fear of the Tenant's behaviour.

The Agent for the Landlord had a witness appear at the hearing to testify about the Tenant's behaviour. The witness lives in the same residential building as the Tenant.

The witness testified that he had complained to the Agent for the Landlord about the loud noise coming from the rental unit which persisted until around 2:45 a.m. on

January 12, 2013. The witness testified that in addition to the loud music, the Tenant was banging on the floor and was again in approximately the 1:00 a.m. to 2:00 a.m. time period.

The witness testified that on Monday January 21, 2013, the witness and the Tenant met in the lobby of the building. The witness testified that the Tenant approached him and began talking in an aggressive and threatening manner, warning the witness that he was only escalating the problem by complaining to the Agent for the Landlord.

The witness testified that the Tenant then pulled out a knife and behaved in a threatening manner. The witness testified that he continued to talk to the Tenant and the situation appeared to calm down and they both walked away.

Later on January 21, 2013, the witness returned to his rental unit and found glass on the floor by a window. There was a small circular hole in the window. The witness stated that when the glass company came to replace the window, the Tenant was hanging around watching for no apparent reason.

The Agent for the Landlord testified that the people replacing the glass explained to him that due to the circumference of the hole and its overall size and clean shape, it appeared someone used a pellet gun to shoot a hole in the window from outside.

The police were called again and searched the building for the Tenant and to see if there were weapons around.

The Agent for the Landlord testified that there is now a no contact order between the Tenant and this witness.

The Agent for the Landlord testified that other occupants in the building are very fearful, and some have threatened to move out due to the actions of the Tenant.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the Tenant breached the Act by significantly interfering with and unreasonably disturbing other occupants of the residential building. I further find that the Tenant seriously jeopardized the health and safety of another occupant in the building.

I also find it would be unreasonable to the Landlord or other occupants of the residential property to wait for a Notice to End Tenancy under section 47 of the Act.

For these reasons I allow the Application of the Landlord and grant an early end to the tenancy.

I grant and issue the Landlord an order of possession effective at 1:00 p.m. Friday February 1, 2013.

This order may be filed and enforced through the Supreme Court of British Columbia.

I also order that the Tenant may be served with a facsimile or copy of the decision and order of possession and this will be valid service.

However, the Landlord must use the original copies in order to enforce the order in the Supreme Court of British Columbia.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: January 31, 2013

Residential Tenancy Branch