



Dispute Resolution Services

Page: 1

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 witnesses gave affirmed testimony at the Hearing.

The Landlord testified that she posted the Notice of Hearing documents to the Tenant's door on February 1, 2013, with a witness present. She stated that she knocked on the door, but no one answered and that later on she saw a guest of the Tenant's remove the documents and bring them inside the rental unit.

The Landlord's witness BP testified that he saw the Landlord post the documents to the Tenant's door but he was not sure if it was January 31, 2013 or February 1, 2013. Based on the affirmed testimony I am satisfied that the Tenant was duly served with the Notice of Hearing. Despite being served with the documents, the Tenant did not sign into the teleconference and the Hearing continued in his absence.

Issue to be Determined:

Has the Landlord show 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:

The rental unit is a suite in the Landlord's house. The Landlord testified that she believes the Tenant is dealing drugs from the rental unit. She believes this to be true for the following reasons:

- She can smell marijuana coming up through the vents, at all times of the day and night.
- Many people (so many that she cannot count them all) visit the Tenant and leave after a few minutes. She has had people knock on her door at 11:00 p.m. asking

for the Tenant. One night a strange man, who appeared to be under the influence of drugs, knocked on her door which frightened her.

- On January 19, 2013, the Landlord was in the Tenant's suite with BP fixing a tap and discovered a substance on the sink, which BP thought was hash oil.
- On January 19, 2013, the Landlord checked an on-line Provincial Court web-site and discovered that the Tenant has an alias and that he has over 2 pages of convictions, including: Breach of Probation; Possession of a controlled substance; Trafficking in a controlled substance; Breach of an undertaking; Escape from lawful custody; Theft; and dangerous and impaired driving offences.
- On January 22, 2013, the Tenant fell into an altercation with some of his guests on the rental property. Police were called and confiscated a machete.
- On January 25, 2013, a smell of marijuana came up the vents
- On January 26, 2013, there were more loud arguments, loud music and the smell of marijuana.
- On January 27, 2013, a smell of marijuana came up the vents at 9:00 a.m. in the morning. The same thing happened on January 28, 2012.
- During this period of time, the Tenant had a guest who stayed for 3 or 4 nights. The Landlord and her witness MB overheard their loud conversations through the vents, which included talk about crime and drugs including that the Tenant's guest was a meth addict.
- On February 1, 2013, there were 5 strangers knocking at the Tenant's door within a space of 2 hours. They only stayed minutes and then were gone.

The Landlord's witness MB is her neighbour and is the nanny for the Landlord's children. She testified that there is a constant flow of people and vehicles coming to the rental unit, staying for a few minutes and then leaving. She stated that she called 911 approximately two weeks ago because of loud yelling. The witness testified that the police found a machete in the rental unit. The witness stated that she smelled drugs coming through the vents when she took care of the Landlord's children at night. Because of this she now has the Landlord's children stay with her when the Landlord is working. The witness stated that she had observed the Tenant doing what appeared to be drug deals in the alley and across the street, but that they appear to have moved it inside because they saw her watching them. When asked why she thought they were drug deals, she said because it was in the alley; the Tenant met the people and would talk, smoke and then leave moments later, with the Tenant heading back to the rental unit and the others going in other directions.

Analysis:

In making an application for an early end to this tenancy the Landlord has the burden of proving, **on the balance of probability**, that there is cause for ending the tenancy,

such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the Landlord and placing the Landlord's property at significant risk, and by proving 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.

Taken in its totality, and based on the **undisputed** affirmed testimony of the Landlord, I am satisfied that the Landlord has provided sufficient evidence on the balance of probability that there is cause to end the tenancy and that it would be unreasonable or unfair to the Landlord 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 and her children and that he has seriously jeopardized the health and safety of the Landlord and her children.

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 with an Order of Possession **effective two days from service of the Order upon the Tenant.** This Order must be served on the Tenant and 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: February 07, 2013

Residential Tenancy Branch

