



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: ET, FF

Introduction:

This is the Landlord's application for an early end to the tenancy and an Order of Possession.

The Landlord gave affirmed testimony at the Hearing.

The Landlord testified that his agent served the Tenant with the Notice of Hearing documents by handing the documents to the Tenant at the rental unit at 5:15 p.m., March 13, 2013. The Landlord provided his agent's written statement with respect to service in evidence.

The Landlord testified that his agent also served the Tenant with copies of his documentary evidence, by handing the documents to the Tenant at the rental unit on March 16, 2013.

Based on the affirmed testimony and documentary evidence provided by the Landlord, I am satisfied that the Tenant was duly served with the Notice of Hearing documents and copies of the Landlord's evidence in accordance with the provisions of the Act. 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 shown 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 to take effect?

Background and Evidence:

The Landlord testified that the Tenant has damaged the rental unit. He stated that there were at least 8 fist sized holes in the walls and 4 broken windows at the rental unit as a result of the Tenant's violent behaviour. The Landlord stated that the Tenant leaves hypodermic needles lying around the rental property. He testified that the Tenant lights fires in the yard and then leaves them unattended.

The Landlord stated that other occupants have complained about noise disturbances caused by the Tenant and that the Tenant's bad behaviour is escalating.

The Landlord stated that on March 7, 2013, he received another complaint about noise coming from the Tenant's home. He stated that he knocked on the Tenant's door at 6:00 p.m. to talk to the Tenant about the noise. He said the Tenant said, "Come in". The Landlord stood in the open doorway and told the Tenant that he had received another noise complaint. The Landlord stated that the Tenant became very angry and screamed at him, punched him in the face, and threw him to the ground. The Landlord testified that there was a witness present, who restrained the Tenant. The Landlord stated that he is fearful that he would otherwise have been seriously injured. The Landlord called 911. The Police came and arrested the Tenant. The Landlord stated that he believes that the Tenant has been ordered to have no contact with the Landlord. He is not sure if criminal charges have been approved yet.

Analysis:

In making an application for an early end to this tenancy the Landlord has the burden of proving 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;
- or placing the landlord's property at significant risk.

In addition, the Landlord must prove 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.

I accept the Landlord's undisputed affirmed testimony in its entirety. I find that the Landlord did not provide sufficient evidence that it would be unfair or unreasonable for a one month Notice to End Tenancy to take effect with respect to the Tenant's breach noise violations.

With respect to the lit fires and damage to the rental unit, it was apparent that these occurrences happened some time ago. The Landlord stated that he had to put out one of the Tenant's fires on August 15, 2012 at 10:00 p.m., some 7 months ago. He said that the RCMP removed marijuana plants from the rental unit "last year". These reasons may be reasons to end the tenancy under Section 47 of the Act, by giving one Month's Notice, but I do not find they are sufficient to end the tenancy without notice.

However, based on the undisputed affirmed testimony and evidence of the Landlord, I am satisfied that the Landlord has proven that the Tenant assaulted the Landlord on March 7, 2013, and that his violent behaviour is escalating. I find it would be unreasonable or unfair to the Landlord and the other occupants to wait for a one month Notice to End Tenancy for cause to take effect.

The Landlord has been successful in his application and I find that he is entitled to recover the cost of the **\$50.00** filing fee from the Tenant.

Conclusion:

I hereby provide the Landlord an Order of Possession **effective 8:00 p.m., March 21, 2013**. 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.

I Order that the Landlord provide the Tenant with a copy of this Decision when serving him with the Order of Possession.

I hereby provide the Landlord with a Monetary Order in the amount of **\$50.00** for service upon the Tenant. This Order may be filed in the Provincial Court of British Columbia (Small Claims Court) 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: March 21, 2013

Residential Tenancy Branch

