



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This is an application filed by the Landlord for an early end of tenancy and to obtain an order of possession.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended the hearing and have confirmed receipt of the Landlord's notice of hearing package, I am satisfied that both parties have been properly served.

Issue(s) to be Decided

Is the Landlord entitled to an order for an early end of tenancy and an order of possession?

Background and Evidence

Both parties have agreed that an altercation took place between the Landlord's property manager, R.H. and the Tenant's guest, P.A. The Landlord's witness, T. A. reported a noise complaint to the property manager on April 6, 2013. The Landlord's property manager, R.H. attended the rental unit to speak to the Tenant and encountered P.A., the Tenant's guest. The Tenant was not at the scene. R. H. spoke to P. A. about a noise complaint and notified P. A. that the Tenant needed to contact him. P. A. responded that it was from a friend having a heart attack. The Landlord's property manager states that P.A. asked "who is this bitch upstairs and that he would beat her ass, then he asked if I was the manager and when I said yes he came at me and assaulted me by chest bumping me and then heat butting me in the face." The Tenant's witness, P. A. dispute the Landlord claim. Both parties admitted that an argument over the noise resulted. R.H. stated that P.A. hit him with his chest and that he responded by striking R.H. R.H. states that his hand was broken when he struck P.A. P.A. states that

he suffered a beating by R.H. Both parties agreed that the police attended, but each party did not wish to pursue a complaint. No action was taken by the police.

Analysis

Section 56 of the Residential Tenancy Act states,

Application for order ending tenancy early

56 (1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;

(iii) put the landlord's property at significant risk;

(iv) engaged in illegal activity that

(A) has caused or is likely to cause damage to the landlord's property,

(B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or

(C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(v) caused extraordinary damage to the residential property, and

(b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47

[landlord's notice: cause] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I find that it is clear that an altercation resulted when the Landlord's property manager attended in response to a noise complaint. I find on a balance of probabilities that I prefer the evidence of the Landlord's agent over that of the Tenant's witness. A physical confrontation was initiated by the Tenant's guest against the property manager. I find that the Landlord has established a claim under section 56 (2) (a) (ii). The Landlord's agent health or safety was jeopardized by the Tenant's guest in a physical altercation. The Landlord's Application for an early end of tenancy and to obtain an order of possession is granted. This order must be served upon the Tenant. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

Conclusion

The Landlord has established grounds for an early end of tenancy and is granted an order of possession.

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: April 26, 2013

Residential Tenancy Branch

