



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Affordable Housing Societies
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an application by the landlord seeking an Early End of Tenancy and an order of possession. The landlord participated in the conference call hearing but the tenant(s) did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by having a witness present when personally serving the tenant on June 28, 2013. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence. The landlord gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to an order for an Early End of Tenancy?
Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on or about September 1, 2009. Rent in the amount of \$432.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$250.00. The tenants' rent is government subsidized and the market value of the unit is \$1000.00.

The landlord gave the following testimony:

The landlords' agent stated that her dealings with the tenant in recent history have been adversarial and that she noticed that his drinking problem had escalated.

The resident manager stated that the tenant had been a good tenant up until about a year ago. The resident manager stated that they had observed that the tenants' demeanour and behaviour has changed in the past year. The resident manager stated that they had observed the tenant frequently intoxicated and would often yell at other tenants. The resident manager stated that he had received numerous complaints about the subject tenant drinking, screaming and verbal attacks on other tenants. The resident manager stated that the building is a seniors building and that many of the other residents in the building have complained about the subject tenant and their fear of him. The resident manager stated that he had multiple discussions with the tenant about his behaviour and excessive drinking. The resident manager stated that on June 26, 2013 the subject tenant attacked him. The resident manager stated that he observed the subject tenant near the back of the building stumbling and staggering while walking. The resident manager said the tenant was screaming and ranting about an "inspection".

The resident manager said that he had moved aside to let the tenant pass but was knocked over by the tenant. The resident manager stated that the tenant knocked him to the ground and assaulted him. The resident manager advised that due to the attack his hand had been broken which required surgery and that he required 12 staples to close the gash on his head. The resident manager stated the police arrived on scene as well as the paramedics. The police arrested the tenant and the tenant has been formally charged and released on stringent restrictions. The resident manager stated that the tenant was intoxicated last night and was yelling "I'm gonna kill him". The resident manager stated that the tenant has not corrected his behaviour and has been observed intoxicated and yelling on numerous occasions since he was arrested.

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 and placing the landlords property at 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.

I accept the landlord's undisputed testimony. The resident manager stated numerous times during the hearing that "I'm afraid of him and I'm afraid to be in the building". The resident manager stated that many of the other tenants are also fearful of the subject

tenant. In addition to the tenant not changing his behaviour even after he's been warned on numerous occasions and has been formally charged, the landlords have provided photos, a witness statement, their personal testimony, police report and bail conditions to support their claim. Based on the above I find 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 and as a result I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. 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 is granted an order of possession. The tenancy is terminated.

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: July 09, 2013

Residential Tenancy Branch

