



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This was an application by the landlord for an order ending the tenancy on a date earlier than the tenancy would end had a notice to end the tenancy for cause been given to the tenant, and for an Order for Possession. The hearing of the application for dispute resolution was conducted by conference call. The landlord's representatives called in and participated in the hearing. The tenant did not attend although he was served with the application and notice of hearing on June 17, 2013, by posting it to the door of the rental unit. I also heard evidence from the named witnesses on behalf of the landlord.

Issue(s) to be Decided

Should there be an early end to the tenancy?

Background and Evidence

The rental unit is an apartment in a high rise apartment building Vancouver. The tenancy began on February 1, 2012. The tenant is the only occupant named in the tenancy agreement, but his girlfriend, Ms S. H. lives in the rental property with the tenant.

The landlord's representatives testified that because of the conduct of the tenant and his girlfriend, the landlord has applied for an early end of tenancy. According to the landlord's representatives' testimony and the documentary evidence presented, this tenancy has been problematic for some time. As set out in a previous Residential Tenancy Branch Decision, in July 2012, the police attended at the rental unit in response to a 911 call from the tenant's partner and broke the door to the rental unit when they entered the unit by force. The tenant was ordered to pay for the repair.

There have been complaints from other occupants about marijuana smoke coming from the rental unit. The landlord gave the tenant a warning letter in September 2012 and another on January 3, 2013.

On May 19, 2013 there was a further complaint from other residents about the occupants of the rental unit. It was reported that the occupants of the rental unit were banging on the doors of other apartments and yelling profanities at the occupants. An reported that the female occupant of the rental unit threatened to assault her. Occupants living on the same floor as the tenant reported that the tenant and his girlfriend engage in aggressive and lengthy screaming matches throughout the day. Two occupants submitted a written complaint to the landlord after the May 19th incident; they said in their complaint that:

There is drug use within the apartment, violence, profane language and unprovoked aggressive behavior towards other tenants that needs to be addressed by the building management as well as the authorities.

On May 21, 2013 another resident of the rental property made a written complaint concerning the female occupant of the rental unit. She reported that Ms. S. H. was hostile, aggressive and used profane and insulting language when asked politely to move her car so as to allow the resident to park in her reserved parking stall. The resident J.O. testified at the hearing concerning the incident and confirmed the information given in her written complaint.

On May 27th the landlord received a telephone complaint that the tenants were smoking marijuana in the rental unit and arguing loudly.

On June 6, 2013 the landlord served the tenant with a one month Notice to End Tenancy for cause by posting it to the door of the rental unit. The tenant has applied to dispute the Notice to End Tenancy and the tenant's application is scheduled to be heard by conference call on July 18, 2013.

The landlord's representative testified that on June 10, 2013 the occupant S.H came to her office in the rental property and confronted her with respect to the Notice to End Tenancy served on the tenant. Ms. S.H. was so loud, abusive and confrontational that the landlord's representative called the police. Shortly after the police were called, S.H. left the office. The landlord's representative who resides in the rental property is now fearful of the occupant, S.H. and the police have instructed the tenant and S.H. to deal with the landlord in writing and not in person in the future.

I heard evidence from M.C. a resident of the building. She testified that she was present outside the building manager's office on June 10, 2013 when S.H. confronted the landlord's representative concerning the Notice to End Tenancy. She said that the behaviour of S.H. toward the landlord's representative was so aggressive and alarming that she felt that she needed to stay nearby in case the landlord's representative required assistance. M.C. confirmed the events that occurred on May 19th that were the subject of a written complaint to the landlord. She said that she was fearful of Ms. S.H. and is now afraid to leave her apartment out of fear that she will encounter S.H. because she is concerned that she will be physically assaulted by her. M.C. also testified that there was a further disturbance in the tenant's apartment on June 13th when there was a loud physical fight between the tenant and S.H. She said that it was apparent from what she heard that S.H. had physically assaulted the tenant in the rental unit.

The landlord referred to a lengthy handwritten memorandum from the occupant S.H. Complaining, among other matters of mistreatment by the landlord's representative, A.H. and complaining of disturbances and smoking by other occupants on her floor of the rental property. During her testimony at the hearing, M.C. disputed some of these allegations, specifically the accusation about smoking; M.C. confirmed that she does not smoke and nobody has ever smoked in her apartment. The landlord's representative, Ms. P.D. testified that she listened to a telephone conversation between the landlord's representative, A.H. and the occupant S.H. She said that later S.H. reported to her that the landlord's representative A.H. had been rude and abusive towards her, but based on her knowledge of the actual conversation, these accusations were completely baseless and unfounded.

Analysis and Conclusion

Section 56 (2) of the *Residential Tenancy Act* permits me to make an order specifying an earlier date for the end of a tenancy than would be the case had the landlord issued a one month notice to end a tenancy for cause, only if I am satisfied that, among other matters, the tenant or occupant of the rental unit has significantly interfered with or unreasonably disturbed other occupants or the landlord of the rental property, or has seriously jeopardized the health or safety or the lawful right or interest of the landlord or another occupant, and 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. Section 56 (3) of the *Act* provides that: 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 the landlord has grounds to end the tenancy pursuant to the one month Notice to End Tenancy that has been given to the tenants and I find that since the one month Notice to End Tenancy was given on June 6, 2013, there has been an escalation of the hostile and confrontational behavior of the tenant and occupant of the rental unit to such an extent that the landlord's resident administrator has had to contact the police and is seeking a restraining order to prevent S.H from approaching her. I accept the testimony of M.C. that she has been threatened by S.H. and she is now fearful when she leaves her apartment. She testified that she will have to move if the problem is not resolved and other resident of the rental property have also told the landlord that they will move if the occupants of the rental unit are not evicted.

The evidence of the landlord has satisfied me that the tenant and his girlfriend have significantly interfered with or unreasonably disturbed the other occupants and the landlord's representative and 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 to take effect. I give no credence to the written accusations by the tenant and S.H. I find that they were contrived to distract attention from the legitimate complaints by the landlord and other residents concerning the conduct of the tenant and S.H.. Accordingly I order the tenancy to be at an end effective today, July 4, 2013 and I find that the landlord is entitled to an order for possession effective two days after service on the tenant. This order may be filed in the Supreme 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: July 04, 2013

Residential Tenancy Branch

