



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PENTICTON APARTMENTS LIMITED
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: ET, FF

Introduction

This hearing dealt with an application by the landlord pursuant to section 56 of the *Residential Tenancy Act*, for an order to end the tenancy early and obtain an order of possession. The landlord also applied for the filing fee.

The landlord testified that she served the tenant with the notice of hearing and application for dispute resolution on August 30, 2013, by posting it on the door to the apartment, in the presence of a witness. The landlord filed a statement from the witness to confirm this. The tenant did not participate in the conference call hearing. I found that the tenant had been served with notice of the landlord's claim and the hearing proceeded in the tenant's absence.

Issues to be Decided

Is the landlord entitled to end the tenancy early and to the recovery of the filing fee?

Background and Evidence

The tenancy started on April 01, 2012. The monthly rent is \$675.00 payable on the first of the month. Prior to moving in the tenant paid a security deposit of \$337.50.

The landlord testified that from the start of tenancy, the tenant created problems for the manager and the other residents. The problems included verbal abuse, threats of violence, noise disturbances and allowing visitors into the building at all hours of the day and night. The landlord filed a copy of a warning letter to the tenant on February 28, 2013 regarding his activities that disturb other tenants and attract police attention.

On August 24, 2013, the resident manager along with her daughter approached the rental unit to check out loud bangs coming from the rental unit. They observed two males leaving the unit and heading towards the stairwell.

The males were in an altercation and were assaulting each other. One male had a crowbar in his hand. The two males entered the stairwell through the door and the manager followed them.

The manager stated that upon opening the door to the stairwell, both she and her daughter experienced burning eyes and gag reflexes which they later learnt was a result of being pepper sprayed. They called 911 and the police and ambulance attended the scene. The manager and her daughter received medical attention.

The landlord stated that other tenants have also expressed fear of the tenant and his visitors. The landlord filed photographs of the stairwell walls indicating that they were sprayed and need to be painted

Analysis

Based on the above facts and in the absence of any contradictory evidence, I am satisfied that the tenant's behaviour and activities have seriously jeopardized the safety and security of the manager and the other residents. In the circumstances it would be unreasonable and unfair to require the landlord to wait for a notice to end the tenancy under s. 47 to take effect and therefore I find that the landlord is entitled to an order for possession.

A formal order has been issued and may be filed in the Supreme Court and enforced as an order of that Court. I further allow the landlord to retain \$50.00 from the security deposit towards the recovery of the filing fee paid.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The landlord may retain \$50.00 from the security deposit.

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: September 10, 2013

Residential Tenancy Branch

