



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking an order to end the tenancy early and receive an order of possession.

Only the Landlord appeared at the hearing. He gave affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified he served the Tenants with the Notice of Hearing for this matter and his Application by registered mail, sent on October 29, 2013. The Landlord provided receipts indicating the registered mail had been sent to the Tenants on October 29, 2013. Under the Act, the Tenants were deemed served five days later. Despite this the Tenants did not appear at the hearing. I find the Tenants have been duly served in accordance with the Act. I note that refusal or neglect to accept registered mail is not a ground for review under the Act.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

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

Background and Evidence

The Landlord testified that the Tenants reside in a coach house on the property after the Landlord agreed they could live there on a temporary basis, in exchange for them paying expenses to the Landlord.

The Landlord claims the Tenants have significantly interfered with or unreasonably disturbed the Landlord, and that the Tenants have put the Landlord's property at significant risk.

The Landlord testified that on October 26, 2013, he and some friends were having a small gathering at the property to celebrate Halloween early. The Landlord testified that neighbors in the area had been setting off fireworks; however, the Landlord and his friends had not set their off yet.

The Landlord testified that the Tenants rushed over to their gathering and pushed one of the Landlord's friends and pushed the Landlord. According to the Landlord the Tenants seemed to believe that someone had discharged fireworks in the direction of the rental unit, which the Landlord testified had not been the case.

In evidence the Landlord supplied a letter from one of the people who attended this gathering and they explain that they witnessed the Tenants swearing and yelling at the Landlord and other people gathered there. They state in this letter that one of the Tenants had pushed the Landlord. The writer of this letter confirms that no one at their gathering had set off any fireworks to this point.

The Landlord testified that the Tenants have installed an air conditioner and other electrical devices which drew more current than the house was serviced for. The Landlord testified that the actions of the Tenants have damaged the breaker box and it must be replaced.

After the Landlord served the Tenants with the notice of this hearing and his application, the Tenants had a fire in the rental unit. The Tenants apparently constructed a metal box inside the rental unit and were burning lumber and wood. In evidence the Landlord provided a photograph of the rental unit which depicts an open window with a stove pipe extended through the window, with smoke billowing out of the stove pipe end.

Around this time, a friend of the Landlord was on the property to attend to his horses. The friend noticed sparks and smoke travelling through the air toward the area of the hay and barn. The friend followed the trail of sparks and smoke back to the rental unit and saw the stove pipe coming out of the window of the rental unit. He alerted the Landlord. The Landlord called the police and fire department. The fire department attended and broke into the rental unit and put out the fire.

The Landlord testified that the Tenants have slowly been moving their belongings out of the rental unit and he believes that most of their property of value has been removed.

However, he testified that the Tenants avoid him and will not speak with him. He testified that he does not believe they are still residing at the rental unit.

Analysis

Based on the foregoing, the uncontradicted evidence and testimony, and on a balance of probabilities, I find that the Tenants have significantly interfered with and unreasonably disturbed the Landlord, and I find that the Tenants have put the Landlord's property at significant risk. Therefore, I allow the Application of the Landlord to end the tenancy early and grant him an order of possession effective one day after service upon the Tenants.

Creating a fire within a rental unit in an area not intended for a fire and venting it out of a window with a stove pipe is extremely dangerous and could have caused significant harm to the Tenants and any occupants, as well as putting the Landlord's property at significant risk. I find this was a serious breach of the Act by the Tenants.

I find and I am satisfied that it would be unreasonable and unfair to the Landlord or the other occupants to wait for a notice to end tenancy under section 47.

Therefore, pursuant to section 56, I grant the Landlord an order of possession for the rental unit effective one day after service on the Tenants, and I grant and issue the order in this form. This order may be enforced through the British Columbia Supreme Court.

I also find that due to the Tenants' behaviour, the Landlord has reasonable cause to be concerned for the safety of the property and therefore, I order that the Landlord may change the locks on the rental unit one day after serving the Tenants with the order of possession.

If the Tenants have personal property they wish to remove from the rental unit, they must do so by arranging with the Landlord to have supervised access to the rental unit.

The Landlord will act reasonably in allowing the Tenants to access the rental unit property; however, the Tenants must remove all their personal property at the time when the Landlord has granted this supervised access, in order to avoid multiple trips and access times to the property. In other words, the Tenants will have one opportunity to remove their possessions supervised by the Landlord, or an Agent for the Landlord.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: November 26, 2013

Residential Tenancy Branch

