



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 called in together with his two. The tenant's son, S.G. was the principal spokesman at the hearing. The tenant did not attend the hearing; she was represented by Mr. I.S. also an occupant of the rental property who acted as her agent. The tenant did not request an adjournment of the hearing. She relied on written statements and the testimony of her agent at the hearing.

Issue(s) to be Decided

Should there be an early end to the tenancy?

Background and Evidence

The rental unit is a basement suite in the landlord's residential property in Vancouver. There was a previous hearing with respect to this tenancy, held on January 27, 2014. It was the hearing of the tenant's application to cancel a one month Notice to End Tenancy for cause. In a decision dated January 30, 2014, the arbitrator found that there was an oral tenancy agreement between the parties. She cancelled the Notice to End Tenancy given by the landlord for cause and she cancelled a Notice to End Tenancy for landlord's use.

The landlord and his representatives stated that an early end of tenancy is sought because the landlord's son was assaulted by the tenant's guest and sustained serious injuries that required hospital treatment. They said that the assault was unprovoked.

The landlord's sons testified that on February 3, at 7:30 P.M. they attended at the rental property to speak to a tenant in one of the upstairs suites. They banged on the door of the upstairs suite but there was no answer. S.G. testified that he was downstairs in the laundry room area when a black male came out of the tenant's basement suite brandishing a three foot long metal drill bit and yelling: "Who is banging on the windows and disturbing my daughter?" Mr. S.G said that he attempted to take a picture of the man with his cell phone when the man struck him with the drill bit, knocking his phone out his hand and injuring his hand. S. G. said that the man then struck his brother, D.G. in the head and a second time in the stomach when he was on the ground. D.G. suffered a fractured orbital bone and cuts that required stitched. He was hospitalized overnight due to the head trauma. After the assault the black male ran back into the rental unit. The police were summoned and attended. According to S.G. the tenant did not answer the door when the police attended. The landlord's representative said that the police advised them to stay away from the rental property while the tenancy continues. Neither party produced a copy of a police report with respect to the incident. The landlord submitted copies of hospital repairs and photographs showing the injuries sustained by D. G. and S .G.

The tenant's agent said that the tenant is away in looking after a relative. He said that she could not call into the hearing because: "it is too stressful". He referred to written statements submitted by the tenant. He said that the event at the rental unit occurred because the landlord and his sons were banging on the door and windows of the rental unit to harass and intimidate the tenant in order to coerce her into agreeing to move out of the rental unit. He said that the tenant's male guest went out to confront the landlords and he was assaulted by the landlords and the landlord's sons were injured when he was defending himself against the attack. The tenant's agent was not present at the time of the event and his testimony is based entirely upon what he has been told by the tenant and read in the statements she submitted.

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 a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant 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.

The evidence submitted by the landlord established that the landlord's sons were both injured, one seriously by the tenant's guest. The direct evidence of the landlord's sons is contradicted only by the hearsay testimony of the tenant's agent and by written statements by and on behalf of the tenant. The tenant did not attend, did not provide testimony under affirmation and was not subject to any cross examination. I prefer the evidence to the landlord to the tenant's written statements and the hearsay testimony of her agent. Even if there was provocation by the landlord, the assault by the tenant's guest and the injuries sustained by the tenant's son are so serious that I am satisfied that a person permitted on the rental property by the tenant has significantly interfered with or unreasonably disturbed the landlord and has seriously jeopardized the health or safety or a lawful right or interest of the landlord 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.

Accordingly I order the tenancy to be at an end effective today, February 14, 2014 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: February 14, 2014

Residential Tenancy Branch

