



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 2167 Dundas Street Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

ET

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has made application for an early end of the tenancy and an Order of possession.

The agent for the landlord provide affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing for both respondents was given to the male respondent on May 20, 2014 at approximately 2 p.m. Service was completed by agent J.S., with co-worker C.W. present as a witness. Service occurred in the hallway of the building. The evidence was included in the hearing package.

These documents are deemed to have been served to the male respondent on the day of personal delivery, in accordance with section 89 and 90 of the *Act*, however the tenant did not appear at the hearing.

As service to the female respondent cannot be proven, I determined that the application would be amended to remove that individual.

Preliminary Matters

The landlord was unable to determine if the tenant had been able to view the digital evidence, as required by Residential Tenancy Branch Rules of Procedure, section 11.8. Therefore, that evidence was set aside and the landlord was able to describe what had been recorded.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?

Is the landlord entitled to an Order of possession?

Background and Evidence

The tenancy commenced October 21, 2013; rent is due on the 30th day of each month. The tenant and his mother signed the tenancy agreement. The landlord understands that the tenant's mother does not reside in the rental unit.

On April 25, 2014 the tenant was issued a 1 month Notice to end tenancy for cause; that Notice has an effective date of May 31, 2014. There is no evidence that the tenant has disputed that Notice. On May 20, 2014 the landlord applied requesting an early end of tenancy as the tenant's behaviour has escalated.

The resident manager lives in the building and has a residence directly across the hall from the tenant.

The building has video cameras in the hallways and common areas.

A number of problems had been occurring, leading up to the issuing of the 1 month Notice. Once the Notice was given to the tenant his behaviour began to escalate to the point where the resident manager no longer feels safe.

On April 25, 2014 the tenant commenced showing aggressive behaviour. After he received the Notice he would stand in front of the security cameras blowing smoke into the camera and making rude gestures. The tenant is not allowed to smoke in the building.

On April 28, 2014 the manager sent the landlord an email, a copy was supplied as evidence. The manager explained that the tenant's behaviour was becoming worse; with the tenant constantly acting in an aggressive manner. The manager explained that the behaviour was becoming a serious issue and that he was fearing for his safety. The manager asked if the tenant could be evicted for his on-going threats of violence. The manager requested the landlord pursue an early end of tenancy.

On April 29, 2014 the landlord was able to view the cameras to see the tenant had left 2 unsecured bikes in an area behind the building. The manager placed the bikes in the bike rack that is also behind the building. Several hours later the tenant began pounding on the manager's door; he was yelling and swearing, accusing the manager of taking one of the bikes. The tenant then spilled some sort of substance on the manager's door. The police were called and they told the manager he should avoid engaging with the tenant. The tenant was located and the police talked with him.

On April 30, 2014 the tenant saw the manager and started to swear at him and to behave in a threatening manner. He began to walk back and forth in front of the office. The manager placed his phone in record mode and captured the tenant threatening him. The tenant said "if you touch my shit again I will break your fucking neck." The

police were again called and 2 officers arrived. The officers listened to the audio tape and then spoke with the tenant.

Later the manager found a bike belonging to the tenant in the laundry room. He moved the bike to the side so it would not be in a traffic area. The tenant then came to the office and asked the manager if he remembered what he had been told about touching the tenant's belongings.

On May 13, 2014 the landlord discovered that one of the secure bathrooms had a damaged lock. The camera showed the tenant attempting to break into the bathroom; the tool he was using broke off in the lock. The tenant then left the area, and returned, attempting to break the door in. The tenant has his own private bathroom but the landlord believes he is attempting to access the separate bathroom so that he can inject drugs. The landlord had been finding syringes in the bathroom, resulting in the lock being installed. The landlord submitted a photograph of the door handle with the broken tool, and a photo of the piece of tool that was removed from the lock.

The landlord is afraid that the tenant has become so aggressive that he may attempt to break into the office or other secure areas of the building.

On May 17, 2014 the tenant had left a bag of garbage outside of his room; the manager noticed this as he entered his own suite. Later, when the manager went to leave the garbage had been moved to his door, so he put the garbage back by the tenant's door. The tenant then came out of his room and kicked the bag back across the hallway; resulting in a bang so loud that it caused the staff member who was on an upper floor to come to the hallway. A cleaner was also present. The tenant then grabbed the bag of garbage and approached the manager, wanting to fight.

The manager said that if he looks at the tenant the tenant becomes threatening and abusive. The manager said he is now always looking over his shoulder and that working in such a hostile environment is difficult. The tenant's presence affects the manager's decision to leave his unit. The manager believes the tenant is looking for an excuse to fight.

Analysis

In order to establish grounds to end the tenancy early, the landlord must not only establish that they have cause to end the tenancy, but that it would be unreasonable or unfair to require the landlord to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the testimony of the landlord I find that the landlord has met that burden.

In relation to sufficient cause, I find that the behaviour of the tenant after the 1 month Notice was given to him on April 25, 2014 has resulted in serious jeopardy to the safety of the resident manager. When the tenant made the threat on April 29, 2014 I find that

formed sufficient cause to seek an early end to the tenancy. The tenant's behaviour from the point onward has not improved, with continued verbal threats being made.

The resident manager had requested an early end of tenancy within days of issuing the 1 month Notice to the tenant; that request took over twenty days to be put into place, during which time the manager has been threatened and the tenant has attempted to break into a bathroom; causing damage to the landlord's property.

Secondly, in the circumstances I find it would be unreasonable and unfair to require the landlord to wait for a notice to end the tenancy under s. 47. It is unclear why the landlord did not choose to seek an early end to the tenancy immediately following the threat that was made on April 29, 2014; other than a hope the tenant would cease his threatening behaviour. The manager has a right to work in an environment free from verbal threats and threats of assault and has expressed what I find are legitimate concerns for his safety. Therefore, I find that the landlord is entitled to an Order of possession.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an Order of possession.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: May 27, 2014

Residential Tenancy Branch

