



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Cascadia Apartment Rentals Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an application by the landlord seeking an order to end the tenancy early and obtain an order of possession. The landlord participated in the conference call hearing but the tenant(s) did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by personal service on June 16, 2014. The tenants submitted a letter stating that an advocate would be representing them for this hearing. The advocate submitted some evidence and made reference to today's date and time of hearing. I found that the tenants had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence. The landlord gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to an order to end the tenancy early?
Is the landlord entitled to an order of possession?

Background and Evidence

The landlord gave the following undisputed testimony:

The tenancy began on or about November 15, 2006. Rent in the amount of \$880.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$292.50. The landlord stated that the tenants are living in absolute filth. The landlord stated that the woman is 87 years old and her son is 63 years old. The landlord stated that she has grave concerns as there are mental health issues. The landlord stated that she has been in constant contact with Vancouver Coastal Health to assist the tenant to have the unit cleaned and to have proper supervision provided for the tenants. The landlord stated that they have given numerous verbal and written warnings to the tenants to rectify the situation.

The landlord stated that the tenants are a significant risk to the property and the health of other tenants, the landlords and their employees and the tenants themselves. The landlord stated that the son has been observed inside dumpsters looking for food and sitting in his room on top of numerous bags of garbage. The landlord stated that the suite smells like a dumpster full of garbage on a hot summer day. The landlord stated many of her employees are fearful of going into the unit because of the garbage and numerous pest infestations.

The landlord stated that the pest control company refuses to treat the unit until it is vacated; garbage removed and cleaned as no treatment will be effective until then. The landlord

stated that she has made numerous requests to Vancouver Coastal Health to assist the tenants and provide them a dignified and proper living arrangement. The landlord stated that she has notified the authorities every step of the way hoping for them to intervene and assist the tenants. The landlord requests the tenancy to come to an end and an order of possession.

Analysis

In making an application for an early end to this tenancy the landlord has the burden of proving that there is cause for ending the tenancy, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the landlords property at risk, **and** by proving that it would be unreasonable or unfair to the landlord or other occupants to wait for a One Month Notice To End Tenancy for Cause under Section 47 of the Act to take effect.

Section 56 of the Act uses language which is strongly written and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant, or put the landlord's property at significant risk or that it's **unfair** to the landlord or other occupants to wait for a Notice to End Tenancy.

I do find that it would be unreasonable for the landlord to wait for a notice under Section 47 and I order that this tenancy end. Based on the above facts I find that the landlord is entitled to an order of possession. The tenant must be served with the order of possession. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain \$50.00 from the security deposit in full satisfaction of the claim.

Conclusion

The landlord is granted an order of possession and to 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: July 02, 2014

Residential Tenancy Branch

