



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") for an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act and for recovery of the filing fee.

The landlord and tenant attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The tenant confirmed receiving the landlord's application, containing the only documentary evidence, which was the card from the RCMP officer attending the rental unit.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

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 and to recover the filing fee?

Background and Evidence

The undisputed evidence shows this tenancy began on January 20, 2014 and monthly rent is \$400. The rental unit is in the basement level of a home owned and occupied by the landlord and his family on the upper level.

In support of his application, the landlord submitted that the tenant has engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of the landlord and his family and seriously jeopardized the health or safety or a lawful right or interest of the landlord.

In explanation the landlord submitted that on or about June 9, 2014, the tenant assaulted his 9 year old son in their back yard when he spanked him, in the presence of his 11 year old daughter. According to the landlord, the tenant was arrested and held in custody until his court appearance. The tenant was released on probation after his court appearance, with some of the terms of his probation being that he could not return to the rental unit without a police escort and that there could be no contact with the landlord or any members of his family.

The landlord submitted that the tenant signed the document, entitled a "Recognizance of Bail" agreeing to these terms of his release.

The landlord submitted that his son is now afraid to sleep in his own bedroom, and has been sleeping with him.

In response, the tenant submitted that he had a very friendly relationship with the landlord and his children. As to the incident in question, the tenant submitted that the tenant's son was being aggressive towards him and that when he, the tenant, caught up with child, he did "playfully" spank the 9 year old.

The tenant submitted that he would always joke around with the landlord's children, and would often say that he "slap their ass."

Analysis

In order to establish grounds to end the tenancy early under section 56 of the Act, the landlord must not only establish that he has 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 and the tenant, I find that the landlord has met that burden.

I accept the landlord's evidence that the tenant unlawfully struck the tenant's son, leading to his arrest and confinement until he was released on probation. I further find that when the tenant signed his conditions of probation agreeing not to return to the rental unit without a police escort or to have contact with the landlord and his wife, the proof of the landlord became even stronger.

I do not accept the tenant's version of events that the striking of a child was done in a playful manner and is ever acceptable.

Due to these conclusions, I therefore find that the landlord has proven that the tenant has engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right

or interest of the landlord and his family and seriously jeopardized the health or safety or a lawful right or interest of the landlord.

I am also satisfied that it would be unreasonable and unfair to the landlord, to wait for the 1 Month Notice to End Tenancy to take effect. I therefore grant the landlord's application to end this tenancy early as well as his request to recover the filing fee paid for this application.

Conclusion

The landlord's application has been granted.

I grant the landlord a final, legally binding order of possession for the rental unit rental unit, effective two days after service of the order upon the tenant, which is enclosed with the landlord's Decision. Should the tenant fail to vacate the rental unit pursuant to the terms of the order after being served, the order may be filed in the Supreme Court of British Columbia for enforcement as an order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

I recognize the tenant has been legally unable to return to the rental unit since the incident in question, so that in effect, the rental unit may already be vacated. The landlord is advised to seek the assistance of an information officer with the Residential Tenancy Branch ("RTB") if he should have any questions about the tenant's personal property.

I grant the landlord a monetary order for \$50, for cost to file this application.

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: June 26, 2014

Residential Tenancy Branch

