



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0996443 BC Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an application by the landlord for an early end to the tenancy.

Both the landlords and one of the tenants attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

Are the landlords entitled to an order ending the tenancy early?

Background and Evidence

The landlord gave evidence that the tenancy started on July 1, 2014 and was for a fixed term ending June 30, 2014. The tenants are obligated to pay rent of \$880.00 monthly in advance on the first day of the month. The tenants also paid a security deposit of \$440.00.

The landlord gave evidence that he served the tenants with a notice to end tenancy for cause (the "Notice") by personal service on July 14, 2014. The Notice specifies an effective date, or move-out date, of August 31, 2014. As of the date of the hearing, the tenants have not applied to dispute the Notice. The tenant gave evidence that they do not intend to dispute the Notice.

The landlord seeks to end the tenancy early for the following reasons. First, the landlord asserts there are too many occupants in the rental unit. The landlord gave evidence he has been told that the female tenant's adult daughter and her 3 year old son, and another adult female with an infant child, are occupying the one-bedroom rental unit. The landlord states they told the two tenants there were not to be any other occupants in the rental unit besides themselves.

The tenant denies that there are any other people occupying the rental unit besides the two tenants. He says the female tenant's adult daughter and her son stayed with them for one weekend and have also visited once or twice a week for an hour or two at a time. The tenant agrees the 3 year old can be a little loud, but says it is "regular noise".

The landlord gave evidence that he has had complaints from other tenants about the tenants in this application. The landlord provided copies of emails and one voicemail transcript from five other tenants and the building manager regarding the tenants in this application.

The landlord gave evidence that other tenants believe the tenants in this application are involved in drug transactions around the building. Emails from two other tenants and the property manager state they have each witnessed what they believe to be drug deals near the building. The email from tenant WR states "I have witnessed on three occasions what looked like some sort of a drug deal happening ... the last time [tenant] looked to me like she was buying something from a guy in a car out front." The email from the property manager states "I also saw the drug dealing going on last night just after dinner I could see straight down into the front of the car through the windshield the dealer looked like he was cutting up something gave it to [tenant]". Those two emails apparently refer to the same incident on July 13, 2014. The landlord's evidence is that the tenants are "known" to the RCMP who have asked to be informed of any issues at the building.

The tenant gave evidence that it is false that the tenants are making drug deals. He says the other tenant went down to see a friend in his car.

The landlord also gave evidence that other tenants have safety concerns about people being buzzed into the building by the tenants in this application. The landlord says that the other tenants have seen men described as "rough-looking, gang-looking, and large" that are visitors of the tenants in this application. The landlord also said that one of the tenants' visitors repeatedly buzzed another tenant's buzzer in error and swore at the other tenant. The landlord did not provide any evidence that the tenants' visitors have approached or spoken to any other occupants of the building, other than the buzzer incident.

The tenant says his male visitors have been one of his friends and his girlfriend, and the female tenant's dad. He says the female tenant's daughter buzzed the wrong rental unit, but now knows the correct buzzer.

The landlord says that one other tenant has given notice to move out because of concerns about the tenants in this application, and two other tenants have indicated they may give notice. The landlord says the other tenants are mostly single female senior citizens, who are concerned about unfamiliar people going in and out and a police presence at the building. The landlord says other tenants have made changes, such as bringing bikes from the storage area into their suites, since the tenants in this application moved in.

The tenant gave evidence that they are trying to be quiet. He says the other tenants are used to older people in the building. There are hardwood floors and so noise travels downstairs. He does not know why people are bringing their bikes up from the storage area, since there have been no thefts reported at the building.

The landlord says their main concern is noise, both from adults raising their voices and swearing in the rental unit and from children. He says the noise resonates up and down.

The landlord also gave evidence that the RCMP “raided” the tenants’ suite on July 15, 2014. The landlord was told this in an email from the property manager and did not know how the RCMP got into the building, whether the RCMP entered the rental suite, and what the reason was for the RCMP presence. The tenant gave evidence that they were not home the evening of July 15th and were not visited by the RCMP.

The landlord’s position is that it would be unfair to the other tenants to have to wait until August 31, 2014 for the tenants to move out, since the other tenants are very concerned about the activities of the tenants in this application.

Analysis

Section 56 of the Act provides that a landlord may make an application for dispute resolution to request an order ending the tenancy on a date that is earlier than the tenancy would end if notice to end tenancy were given under Section 47 [*landlord’s notice: cause*], and granting the landlord an order of possession in respect of the rental unit.

The landlord must prove two things. First, the landlord must show that there are one or more causes to end the tenancy as specified in Section 56(2)(a). Secondly, the landlord must prove the following, as specified in Section 56(2)(b):

(b) 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.

A notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to Section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be “unreasonable or unfair” to wait for a cause notice to take effect.

In this case, I accept the landlord's evidence that other tenants in the building are concerned and apprehensive. While the other tenants may be concerned or apprehensive, I am unable to conclude that there is any reason to speed up the normal process of eviction for cause. There is nothing in the evidence to indicate the tenants have posed any threat to persons or property at the rental building.

The other tenants' concerns appear to be based largely on their perception that the tenants are engaged in drug deals, the physical appearance of the tenants' visitors, and the presence of the RCMP on the property. Each of these factors may raise concern, but I find these factors do not prove it would be unreasonable or unfair to the other tenants to wait for the Notice to take effect. There was one mention of night-time noise from the rental unit in a voicemail transcript apparently from another tenant. However, this issue was not mentioned in the other tenant or property manager emails or raised at the hearing and I conclude it is not a significant issue.

For these reasons, I dismiss the landlords' application for an early end to tenancy.

Conclusion

The landlord's application is dismissed.

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 24, 2014

Residential Tenancy Branch

