



Dispute Resolution Services

Page: 1

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, seeking an order to end the tenancy early, receive an order of possession and recover the filing fee for the Application.

The Landlord and three witnesses appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Landlord testified she served the Tenant with the Notice of Hearing and Application for Dispute Resolution on July 13, 2014, by posting these to the door of the Tenant's rental unit. Nevertheless, the Tenant did not attend the hearing. I find the Tenant has been duly served in accordance with the Act.

Issues(s) to be Decided

Is the Landlord entitled to end the tenancy early and obtain an order of possession?

Background and Evidence

The Landlord claims that the Tenant or a person allowed on the property by the Tenant, has significantly interfered with or unreasonably disturbed another occupant or the Landlord of the residential property, or, has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well being of another occupant.

The Landlord testified that she lives on the upper floor of the property and the Tenant and several other renters (the "Occupants") reside in the lower level of the building.

The Landlord alleges that she saw the Tenant selling marijuana in a park near the rental unit. The Landlord alleges she has seen significant quantities of marijuana in the Tenant's rental unit.

The Landlord testified that she received complaints from the Occupants about the ongoing noise and disturbances created by the Tenant. The Landlord has heard some of these disturbances herself, but has been away from the rental unit when other recent events occurred.

The Landlord testified that she has heard the Tenant playing his music very loudly, often past midnight and into the early hours of the morning, waking everyone up.

The Landlord testified she has seen the Tenant come home late at night or early in the morning, such as at 3:00 a.m., and he repeatedly slams the doors in the rental unit and this is loud enough to shake the wall and wake up everyone sleeping in the house. The Landlord testified that this particular behavior has occurred several times and at least twice since June 10 or 11th, 2014.

The first witness (Witness 1) testified that he is an Occupant at the rental unit. He testified that the first day he moved into the rental unit the Tenant offered him illegal drugs, which the witness refused.

Witness 1 further testified that the Tenant often comes home late and brings his friends into the rental unit and common areas. This often occurs at 3:00 a.m., and the Tenant and his friends will play the music loud and party and wake everyone up. Witness 1 further testified that in the past two weeks the Tenant and his friends have spit mucous onto the mirror, in the common bathroom shared by the Occupants.

Witness 1 further testified he has seen the Tenant go through "extreme meltdowns", where the Tenant becomes very loud and aggressive, with screaming and yelling.

Witness 1 testified that an incident occurred on the evening of June 10 or 11, in which the police had to attend the rental unit. Witness 1 testified that approximately 3:00 am in the morning the Tenant began banging on the door of another Occupant and was extremely mad. The Witness was not sure what the Tenant was upset about, but thought it may be that the Occupant had written a letter of complaint to the Landlord. Following the police attendance the Tenant continued to scream and yell from 4:00 am to 6:00 am, according to Witness 1.

Witness 2 testified that since he has moved into the rental unit he has been disturbed on a regular basis by the loud music played by the Tenant. The Tenant will often start playing loud music around 9:00 pm and continue playing it until the early hours, according to Witness 2. He further testified that despite repeatedly asking the Tenant to turn it down, the Tenant refuses to lower the volume.

Witness 2 was present for the events in June and testified that he saw the Tenant banging on one of the Occupants door for a long period of time. The Tenant was challenging the Occupant to a fight and was upset that the Occupant had complained to the Landlord about his noise. Apparently the Occupant called the police and they attended the rental unit. According to this witness the Tenant did not display this behavior when the police were there, although after they left, the Tenant began banging on the Occupants door again and threatening him.

Witness 3 testified that he was the Occupant that the Tenant had threatened and it was his door the Tenant was banging on for a long period of time during the June incident.

Witness 3 testified that he noticed that the Tenant made a lot of noise and disturbances from the moment he moved in. Witness 3 testified that he noticed the Tenant was not cleaning up after himself and leaving messes in the bathroom, along with the Tenant's guests. When Witness 3 asked the Tenant to try and keep the common areas clean the Tenant took it very badly, became very angry and began yelling and swearing.

According to the testimony of Witness 3, a day or two later, the Tenant came home in an intoxicated state and began acting very aggressively towards him. The Witness was asleep and awoke when the Tenant started banging on the Witnesses' door and insulting him. The Tenant was challenging him to a fight and continued to bang on the door for quite a while. Witness 3 explained he thought the Tenant was upset because he asked him to clean and because they had complained to the Landlord about the Tenant and his constant noise and disturbances.

Witness 3 explained he called the police and they came and settled the situation down. After the police left the Tenant again began banging on the door keeping him awake until 6:00 am or so. According to Witness 3, the Tenant was insinuating that he should be careful as the Tenant can be very bad and Witness 3 did not want to see this side of the Tenant.

Witness 3 testified he feels unsafe and threatened by the Tenant. He testified that for the past while every time the Tenant comes home late at night, he walks by the

Witnesses' window and bangs on the glass to wake him up. The Tenant then insults Witness 3 and continues to challenge Witness 3 to a fight.

Analysis

Based on the above, the uncontradicted evidence and testimony, and on a balance of probabilities, I find that the Tenant has significantly interfered with and unreasonably disturbed other Occupants of the residential property.

I also find that the Tenant has adversely affected the quiet enjoyment and safety of the other Occupants of the property.

I further find and I am satisfied that it would be unreasonable and unfair to the Landlord or the other Occupants to wait for a notice to end tenancy under section 47.

Therefore, pursuant to section 56, I grant the Landlord an order of possession for the rental unit effective two days after service upon the Tenant, and I grant and issue the order in this form. This order must be served on the Tenant and may be enforced through the British Columbia Supreme Court, using a court appointed Bailiff.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: July 24, 2014

Residential Tenancy Branch

