



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

Introduction

This was an application by the landlord for an order ending the tenancy on a date earlier than the tenancy would end had a notice to end the tenancy for cause been given to the tenant, and for an Order for Possession. The hearing of the application for dispute resolution was conducted by conference call. The landlord's representatives called in and participated in the hearing. The tenant did not attend although he was served with the application and Notice of Hearing sent by registered mail on October 3, 2014

Issue(s) to be Decided

Should there be an early end to the tenancy?

Background and Evidence

The rental unit is an apartment in downtown Vancouver. The tenancy began on June 1, 2013 for a one year fixed term and thereafter on a month to month basis.

The landlord's representatives testified that because of the tenant's conduct they have applied for an early end of tenancy. The tenant has rented three apartments in the rental property, ostensibly for his occupation and for occupation by two other family members. The landlord recently discovered that the tenant has been advertising and renting the rental unit and the two other units in the rental property for short stay visitors. The tenant has rented individual rooms in the units for stays as brief as two days. The rental units have been advertised on the internet, in particular on a site devoted to short term visitors. The landlord provided copies of the tenant's advertisements on the website: "www.airbnb.ca". The landlord provided a written statement from an occupant of the rental property who lives in an apartment on the same floor as the rental unit. She said in her statement in part as follows:

I moved in October 2013 and have noticed from the moment we moved in that weird activity was taking place across the hall in (rental unit). There appears to be 2 tenants that reside there full-time, however over the year, I have noticed well over 30 people who have entered/left the suite that I have never seen before. We suspected there may be drug dealing or that the unit is rented on a daily/weekly basis. Overall it does not make me feel safe in my own home or my building.

In September, 2014 the landlord's representative received a report that rooms and units in the rental property were being rented out to short stay visitors; this caused the landlord's representative to conduct a door to door survey of the rental property to ascertain who was occupying each unit. When the landlord's representative was conducting a check of the 5th floor occupants, she noticed an individual bringing a suitcase to the rental unit. She spoke to him and discovered that he was not a returning tenant, but a short stay visitor who had rented space in the unit from the tenant. The visitor was confrontational towards the landlord's representative. He was observed sneaking into the underground parkade where he attempted to hide from the landlord's representative.

The landlord has served the tenant with a one month Notice to End Tenancy for cause, but the landlord has brought this application because it is the landlord's position that the tenant's illegal subletting and the presence of temporary unapproved and illegal transient occupants in the rental unit and the rental property is seriously jeopardizing the safety of all tenants in the rental property. The landlord's representative said that currently the landlord has no ability to control who the tenant is allowing into the building and there has also been suspected drug activity that the landlord considers to be an unreasonable danger to other occupants of the rental property.

Analysis and Conclusion

Section 56 (2) of the *Residential Tenancy Act* permits me to make an order specifying an earlier date for the end of a tenancy than would be the case had the landlord issued a one month notice to end a tenancy for cause, only if I am satisfied that, among other matters, the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the rental property, or has seriously jeopardized the health or safety or the lawful right or interest of the landlord or another occupant, and 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. Section 56 (3) of the *Act* provides that: If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I find that the tenant's subletting of the rental unit to short-term visitors does put the landlord property at risk and jeopardizes the health and safety of other occupants.

The evidence of the landlord has satisfied me that the tenant has seriously jeopardized the health or safety or the lawful right or interest of the landlord and other occupants of the rental property and 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 to take effect. Accordingly I order the tenancy to be at an end effective today, October 17, 2014 and I find that the landlord is entitled to an order for possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an Order of that Court.

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: October 17, 2014

Residential Tenancy Branch

