



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Penticton & District Society for Community Living
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an application by the landlord for an early end of tenancy and an order of possession. The landlord's representatives and the tenant called in and participated in the hearing.

Issue(s) to be Decided

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

Background and Evidence

The rental unit is a townhouse type of unit in the landlord's subsidized housing complex in Penticton. The landlord's representative said that the units are clustered and each building contains four units. The tenancy started on October 28, 2011. The tenant lives in the rental unit with her three children. The tenant's eldest son is 12 years old. The landlord submitted copies of e-mails and communications from other occupants who complained about incidents involving the tenant's son. One occupant complained by e-mail on June 28, 2016 that the tenant's son, "D" had been shooting a B-B gun or pellet gun out of an upstairs bedroom window. It was claimed that he nearly hit a neighbour. The occupant also claimed that "D" had been acting aggressively towards her son.

The landlord's representative testified that the tenant's son was also involved in starting a grass fire near the rental complex. The fire department was called to attend.

The landlord's representative referred to complaints that the tenant's son had acted destructively on other occasions in July. It was alleged that he broke a neighbour's doorbell. The landlord's representative said that another report was received in August alleging that the tenant's son had again fired a B-B gun.

The tenant acknowledged that her son had been involved with another boy and was with him when a grass fire was started by one of the boys playing with a lighter. The tenant testified that she received complaints that her son fired his B-B gun; she said that he shot at a fence. The tenant has confiscated the gun. It is locked up and her son has no access to it. She said that there was no incident in August and the report that he was shooting a B-B gun related to an occasion when her son threw a rock at a fence.

The tenant said that her son was going through a difficult period. She has taken him to a counsellor for assessment and received a report that he is a normal child and does not have a psychological problem. The tenant said that her son is upset about the events and concerned that his behaviour could cause the family to lose their housing. The tenant lives in the rental unit with her three children and she is currently pregnant.

Analysis

Under section 56(2)(b) of the Act, in order to establish a claim for an early end to tenancy, the landlord must establish that "it would be *unreasonable, or unfair* to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47" (emphasis mine). I am not satisfied that this unreasonableness or unfairness exists. The hearing was conducted on September 20, 2016. The incidents of particular concern took place in June and July. The events are troubling, but the tenant has taken some appropriate steps to address the concerns raised. She confiscated the B-B gun and I do not have direct evidence of any further incidents since then. She also took her son for an assessment.

I do not find that the current circumstances are so dire that they would justify the use of the extraordinary remedy of ending the tenancy without notice and accordingly I dismiss the landlord's application. If there are further incidents the landlord will be at liberty to serve the tenant with a one month Notice to End Tenancy for cause, or if the circumstances warrant, to make another application for an early end of tenancy. The landlord will bear the cost of the filing fee for this application. The tenant is cautioned

that if her son's behaviour results in well-founded complaints from other occupants in the future, then she will likely be facing another eviction proceeding.

Conclusion

The landlord's application for an early end of tenancy and an order of possession 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: September 22, 2016

Residential Tenancy Branch