



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kenstone Hornby LP and Atira Property Management, Agent
and [tenant name suppressed to protect privacy]

DECISION

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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 representative called in and participated in the hearing. The tenant participated in the hearing and she was represented by her legal advocate.

Issue(s) to be Decided

Should there be an early end to the tenancy?

Background and Evidence

The rental property is a single room occupancy hotel in Vancouver. The tenancy began in March 2016 for a three month term and thereafter verbally extended on a month to month basis despite a requirement in the tenancy agreement that the tenant move out at the end of the term.

The landlord's representative said that the landlord is seeking an early end of tenancy because the tenant is involved in: "high level" drug dealing and the police have seized contraband from the rental unit, including pill pressing equipment, guns, ammunition and knives and other weapons.

The landlord provided a report from a Vancouver police officer to the landlord's property manager dated September 8, 2016. The officer stated that on July 8, 2016 the police attended at the rental unit and seized a Lee Enfield rifle, .308 ammunition rounds, a Beretta replica BB gun, a home-made taser, a sword, hunting knife, 50 rounds of 7.62 x 39 mm ammunition and a large drug packaging and pill pressing kit.

The landlord's representative testified that members of the Vancouver Police Department attended at the rental property on September 1, 2016 to accompany him

when he served Notices to End Tenancy to four rooms including the rental unit occupied by the respondent.

The landlord said that when he attended to serve the tenant at the rental unit the police intervened. The five occupants with two large dogs were removed from the rental unit and the police seized two firearms and some ammunition as well as drugs, drug paraphernalia and knives and swords.

The landlord's representative said that the presence of weapons on this occasion caused him to file an application for an early end of tenancy the following day.

The landlord's representative said that the landlord was seeking an immediate end of tenancy because the circumstances, including the presence of weapons in the rental unit created concerns about the safety and welfare of other occupants in the rental unit. In the September 8th report to the landlord the Vancouver Police Department's neighbourhood police officer and hotel liaison said:

Considering the seizure of various types of weapons connected to this resident and her boyfriend, it is the belief of the Vancouver Police Department that these persons continuing to reside in (name of hotel) present a significant hazard to the safety of residents, guests and staff.

The tenant testified that the Lee Enfield rifle was an antique of no use as a weapon and that she purchased it with the expectation of making a profit reselling it. She said that some of the so-called ammunition had been emptied of all gun powder and was actually a key chain another item was actually a belt. The tenant said that no charges had been laid by the police and the tenant's advocate noted that there have been no reported incidents of violence involving the tenant. She said the BB gun was used to shoot mice in the rental unit. The advocate submitted that if there were grounds for ending the tenancy it would be pursuant to a one month Notice to End Tenancy for cause, but not by way of an extraordinary application for an early end of tenancy. She noted that the landlord delayed in taking action after the first police attendance and suggested that the landlord's concerns were overstated.

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, if I am satisfied that, among other matters, the tenant has or a person permitted on the residential property by the tenant, has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential 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 [*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.

The landlord has provided evidence of that the police have twice attended at the rental unit and on each occasion found guns, ammunition and other weapons in the rental unit as well as drug paraphernalia including ill pressing and packaging equipment.

It may be the case that the tenant has not engaged in any violent activity in the rental unit, but there is evidence that the tenant or persons permitted in the rental property by her have engaged in illegal activity. I find that the presence of guns and ammunition in the rental unit when the police attended on September 1, 2016 viewed in concert with the previous findings at the unit justifies the landlord's decision to proceed with an application for an early end of tenancy. The landlord has a positive obligation to protect its other tenants and the landlord should not be constrained to wait for a violent event to occur before seeking an early end of tenancy. The evidence of the landlord has satisfied me that the tenant persons permitted on the rental property by her have engaged in illegal activity that is likely to affect the security, safety or physical well-being of other occupants 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, September 23, 2016 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.

Conclusion

The landlord's application has been granted and an order of possession issued.

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 23, 2016

Residential Tenancy Branch