



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to section 56 of the *Residential Tenancy Act* (the "Act") for an early end to this tenancy and an order of possession.

"Tenant ST" did not attend this hearing, which lasted approximately 52 minutes. The other tenant DR, (the "tenant") and the landlord attended the hearing and were given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses. The tenant confirmed that he had authority to represent tenant ST as an agent at this hearing.

The tenant confirmed that he had received the landlord's evidence and that he did not provide any documentary evidence for this hearing. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the landlord entitled to an order ending this tenancy early?

Background and Evidence

As per the submitted tenancy agreement and testimony of the parties, the tenancy began on November 21, 2016 on a fixed term until November 30, 2017. Rent in the amount of \$1,265.00 is payable on the first of each month. The tenant remitted a security deposit in the amount of \$630.00 at the start of the tenancy. The tenant continues to reside in the rental unit.

Landlord

The landlord testified to a number of reasons for ending the tenancy; however the primary reason identified by the landlord, is the tenant has seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant. It is the landlord's position that the tenant is dealing narcotics out of the rental unit thereby putting the landlord's safety at risk and interests in jeopardy.

Shortly after the tenancy started, the landlord began conducting repairs in the suite below the rental unit. The landlord testified that with the lack of insulation in the ceiling and the shared heating ducts conversations are easily overheard. The landlord testified that he overheard conversations and negotiations about crack, powder and amphetamines. The landlord observed a number of people coming to the upstairs door, staying for only a few minutes and departing, often to a waiting cab.

The landlord testified that on December 12, 2016 a constable from the Kamloops RCMP contacted him and advised him surveillance of the property was underway due to the tenant's involvement in the drug trade. The landlord shared his overheard conversations with the constable and told the constable he would be confronting the tenant later that afternoon. The constable suggested it may be unsafe for the landlord to attend the rental unit alone and offered to escort the landlord to the rental unit.

During the December 12, 2016 visit to the property, the landlord observed a surveillance camera had been installed on the exterior of the house. The landlord, escorted by two RCMP members, served the tenant 24 hour notice of inspection. The landlord testified that the parties mutually agreed that the landlord would return the security deposit and remainder of December rent in exchange for the tenant vacating the rental unit by December 16, 2016.

On December 13, 2016 the landlord attended the rental unit escorted by RCMP members. The landlord conducted his inspection and was told by the tenant that he had changed his mind; he would not be vacating the rental property. The landlord contends that any visit he makes to the rental unit is escorted by two to four squad cars and up to 6 RCMP members.

The landlord testified that he cannot with good conscience rent out the basement suite knowing the upstairs tenant is engaged in illegal activity that could potentially bring harm to an occupant.

Tenant

The tenant testified that there are no street facing windows in the lower suite and therefore the landlord could not have observed anything. The tenant explained that he had installed the security camera as the rental unit is located in an area frequented by transient people.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an order of possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an order of possession under section 56, I need to be satisfied that the tenants have done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, **and***

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 [landlord's notice: cause] to take effect.

Based on the evidence presented, and on the balance of probabilities, I am satisfied that the tenant has seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.

I accept the landlord's testimony that he overheard conversations pertaining to drug purchases, that he observed people coming and going and that police presence was necessary to ensure his personal safety. I find the landlord's testimony was forthright and credible whereas the tenant's testimony was evasive. The tenant did not provide a

direct reply to the landlord's allegation of narcotic dealing; instead the tenant remained silent on this allegation. In the absence of a denial from the tenant I find it probable the tenant is dealing narcotics out of the rental unit.

I am satisfied that this illegal activity has put the landlord's safety at risk which is evidenced by the need for police attendance in all dealings with the tenant. Further I find that the landlord's interest, in the form of income from the downstairs suite is jeopardized by the illegal activity upstairs.

I am satisfied that it would be unreasonable and unfair to the landlord to wait for a notice to end tenancy under section 47 to take effect. Therefore, pursuant to section 56 of the *Act*, I grant the landlord an order of possession for the rental unit effective two days after service upon the tenant.

Conclusion

I grant an order of possession to the landlord effective **two (2) days after service on the tenant**.

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: January 17, 2017

Residential Tenancy Branch