



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VANCOUVER NATIVE HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord to end the tenancy early and obtain an order of possession, and to recover the filing fee.

The landlord's agents attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord's agents testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on September 25, 2019, a Canada post tracking number was provided as evidence of service.

The Canada post tracking history shows that the tenant was left a notice of delivery card on September 26, 2019 and a final notice delivery card was left on October 1, 2019. The tenant did not pick up the package and it was returned unclaimed on October 16, 2019.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act. Refusal or neglect to pick up the package does not override the deemed service provision of the Act.

Issue to be Decided

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

Background and Evidence

The tenancy began on July 13, 2018. Economical rent in the amount of \$1,145.00 was payable on the first of each month. The tenant's portion was the amount of \$320.00. A security deposit of \$572.50 was paid by the tenant.

The landlord's agents testified that the tenant was involved in a home invasion on September 3, 2019.

The agents testified that the tenant is seen on a video letting three masked men into the building, who went to another unit and entered their unit through a window. The agents stated that the renter's daughter woke to find one of these men in their bedroom. The agents stated that the girl called out to her parents not to leave their room as they had a gun. The video shows the three males leaving the building and one was carrying a gun in hand.

The agents testified that on September 9, 2019, these men were again seen at the tenant's unit and propping the door open which allowed another male to enter.

The agents testified that on September 13, 2019, these three men were arrested in the tenant's apartment and a search warrant was executed by the police. The agents stated that the police had their guns drawn when they entered the tenant's unit.

The agents testified that this was a targeted hit; however, they were told the targeted person was not in the home at the time and was not even a resident of the building. The agents stated they do not know what the motive was behind the home invasion.

Filed in evidence are videos, and photographs.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Application for order ending tenancy early

56 (1) A landlord may make an application for dispute resolution to request an order

- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
- (b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
 - (iii) put the landlord's property at significant risk;
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) 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, or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
 - (v) caused extraordinary damage to the residential property, and
- (b) 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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

In this case, I am satisfied that the tenant allowed three masked men in the building complex to commit a home invasion. This is supported by the video surveillance.

I am further satisfied that the tenant's action seriously jeopardized the health and safety of the other occupants of the building. These masked men entered through a secured area of the building which was opened by the tenant. These men crawled through a window into another occupant's unit while the family of that unit was asleep. One of these masked men was in the occupant's bedroom with a gun. I find the tenant purposely allowed these men into the building knowing they were going to commit a home invasion, which put the occupants at serious risk.

I am further satisfied that it would be unfair, unreasonable for the landlord or the other occupants of the residential property to wait for a notice to end tenancy under section 47 of the Act to take effect. The tenant's actions of allowing these men to access the building for an illegal purpose has put everyone of the residential property at serious risk. These men have also been seen on the property after the incident occurred and were finally arrested inside the tenant's unit on September 13, 2019.

Therefore, I grant the landlord's application to end the tenancy early and obtain an order of possession. I find the landlord is entitled to an order possession no later than **two (2) days** after service upon the tenant.

As the landlord was successful with their application, I find the landlord is entitled to recover the filing fee the tenant. The landlord is authorized to deduct \$100.00 from the security deposit in full satisfaction of this award.

Conclusion

The landlord is granted an order of possession.

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, 2019

Residential Tenancy Branch