



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The Landlord applied for an early end to the tenancy, pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The Landlord and the Tenants both attended the hearing and provided affirmed testimony. Both parties confirmed receipt of each other's documentary evidence and no service issues were raised.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine the issue identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

The Landlord explained that he is seeking to end this tenancy early because he suspects the Tenant is dealing drugs in the rental unit and disturbing others in the building with having dozens of people coming and going at all hours of the day, for short visits. The Landlord stated that other Tenants in the building also feel unsafe due to the illegal activity going on. The Landlord explained that the Tenant brought an RV on to the property without permission, although this unit has since been removed. The Landlord stated the Tenant has installed cameras at the entrance to her unit, and has changed the locks on her door.

The Landlord stated that he attended the unit on April 5, 2023, for a one-hour period to observe what was going on, and he took photos of all the guests he saw coming and going from this rental unit. The Landlord estimated there were 10-15 guests in one hour. The timestamped photos were provided into evidence and the Landlord stated that he personally observed each one of the people go inside the rental unit for very short periods of time, then come back out. The Landlord suspects this is part of the Tenant's drug dealing operations.

The Landlord provided a letter which was signed by 8 other Tenants in the building speaking to the fact that they are all feeling unsafe due to the ongoing drug dealing, and the disturbances from all the Tenant's guests. This letter also details that there has been drug use and drug activity, including paraphernalia left behind in common areas. The letter also explains that there are people coming and going all night long that are known to be involved in the drug world.

The Landlord also pointed out that one of the Tenant's guests has made threatening statements to him on more than one occasion. More specifically, the Landlord stated that he owns a couple of local businesses in town, and the Tenant's guest was aware of this, which is why he said he was "going to come by" the Landlord's business after the conflict started to escalate in recent months. The Landlord asserts that one of the Tenant's guests, whom has been seen coming and going from the rental unit, again threatened to come by his business as recently as last week, amid the escalating conflict.

The Landlord obtained a printout from the RCMP office showing that the following reports have been filed by the Landlord, regarding this rental unit, in the last two years:

• Unwanted person	2023-Mar-09
• Theft	2023-Mar -07
• Theft of Auto under \$5000	2023-Mar-06
• Suspicious Circumstances	2023-Mar-02
• Trespass Act	2023-Mar-01
• Suspicious Pers/Veh/Occurrence	2023-Feb-22
• Trafficking-Cocaine	2023-Feb-22
• Suspicious Person	2023-Feb-21
• Check wellbeing	2023-Jan-30
• Check wellbeing	2022-Nov-18
• Suspicious Pers/Veh/Occurrence	2022-Aug-26
• Drugs	2022-July-19
• Drugs	2022-July-07
• Unspecified Assistance	2022-May-17
• Suspicious Circumstances	2022-May-15
• Drugs	2022-May-03
• Drugs	2022-May-02
• Intelligence information	2022-April-30
• Drugs	2022-April-28
• Suspicious person	2022-April-26
• Drugs	2022-April-21
• Check well-being	2022-April-21
• Trafficking- Other CDSA	2022-April-21
• Drugs	2022-April-19
• Drugs	2022-April-18
• Suspicious Pers/Veh/Occurrence	2022-April-18

The Tenant denies all of the allegations from the Landlord, including that she is dealing drugs. The Tenant asserts that the photos taken by the Landlord are of the back stairs to the building, which is shared by many other units in the building, and it does not demonstrate she was dealing drugs to them. The Tenant stated that she put up her camera in the window because her car was broken into last year. The Tenant feels the Landlord is exaggerating and conflating several issues to make it seem like she is a drug dealer and doing illegal acts. The Tenant stated that she changed the lock on her unit last year sometime when she was having issues with her daughter, not to keep the Landlord out. The Tenant denies that the RCMP are staking out her property for drugs, and stated that there is no evidence showing that any of the threats are connected to her tenancy. The Tenant acknowledges that she knows a couple of the people in the photos taken by the Landlord but denies knowing many of them. The Tenant also denies that many of them actually attended her rental unit.

Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; 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.

I note the Tenant denies that the people photographed by the Landlord on April 5, 2023, were all her guests or visitors, and she pointed out that the stairs observed also service other rental units, not just hers. However, in contrast to this, the Landlord specifically stated that he was physically present, and observed, that all of these individuals photographed in the one-hour sample window, were in fact attending the Tenant's rental unit. I note the Landlord also provided a signed letter from 8 other Tenant's in the building speaking to the fact that there are visitors "known to be involved in the drug world" who are coming and going "all night long". When weighing these two competing versions of events, I find the Landlord's sworn verbal statements and photos, in conjunction with the signed letter from 8 other Tenants in the building is more detailed and compelling regarding the number and frequency of guests attending the rental unit. As such I afford it more weight, and I find it more likely than not that the guests photographed in the Landlord's evidence were attending this rental unit. Further, I find it more likely than not that the Tenant has numerous guests at all hours of the day and night, as detailed in the written statement from the other Tenant's in the building.

I note these other Tenant's in the building who wrote the letter in support of the Landlord also assert that there is loud music at all hours of the night, disturbing language, loud arguing in the rental unit, and constant drug deliveries going on. These Tenants also reiterated more than once that the constant flow of questionable guests is highly

disruptive as it happens “all day and night”. Further, these Tenants also are afraid for the safety of children in the building.

Although I find there is insufficient evidence directly linking the Tenant to illegal drug trafficking via the rental unit, I find the circumstances are highly suspicious, when viewed in totality. In any event, I find the number of visitors attending the rental unit on an ongoing basis is highly disruptive to others in the building. There is a signed letter from 8 other Tenants speaking to the many disruptions coming from this rental unit at all hours of the day. I am satisfied that the Tenant and her guests have significantly interfered with and unreasonably disturbed several other occupants in the building. As such, I find the Landlord has cause to end the tenancy under section 56(2)(a)(i). Further, considering the number of other Tenants that are affected by the disruptions, I am satisfied that it would be unreasonable to the Landlord and the other occupants to wait for a 1 Month Notice to End Tenancy to take effect.

I find an early end to the tenancy, pursuant to section 56 of the Act, is warranted. As such, I find the Landlord is entitled to an order of possession.

Conclusion

The Landlord has met the burden to prove the tenancy should end early.

The Landlord is granted an order of possession effective **two days after service** on the Tenants. This order must be served on the Tenants. If the Tenants fail to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be 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: May 08, 2023

Residential Tenancy Branch