



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's application for an early end of tenancy and an Order of Possession. The tenants did not appear at the hearing. The landlord testified that each tenant was personally served with the Landlord's amended Application for Dispute Resolution, Notice of Hearing and the landlord's evidence package on August 17, 2010. Having been satisfied the landlord sufficiently served the hearing documents upon the tenants I proceeded to hear from the landlord without the tenants present.

Issues(s) to be Decided

Are there sufficient grounds to end the tenancy early and issue an Order of Possession to the landlord pursuant to section 56 of the Act?

Background and Evidence

I was provided undisputed evidence as follows. The tenancy commenced January 4, 2010. Since the tenancy began the landlord has issued three warning letters to the tenants with respect to excessive noise coming from the tenants and guests of the tenants in the rental unit and on the residential property. The warning letters were issued on January 10, 2010, May 28, 2010 and June 1, 2010. On July 28, 2010 the tenant threatened the occupant of another unit in the residential property and the landlord served the male tenant with a 1 Month Notice to End Tenancy for Cause with an effective date of August 31, 2010. After the Notice was served disturbing behaviour by the tenants and their guests continued, causing the landlord to make this application.

Upon enquiry, the landlord testified that the police have attended the rental unit six times in the past three weeks. Frequently fighting can be heard in the rental unit and fights spill out into the parking lot. In addition, yelling, screaming and loud music is frequently heard until very early in the morning. The most recent incident occurred two days ago where excessive noise was heard until 5:00 a.m. The landlord and the RCMP have been communicating about the disturbances taking place in the rental unit and the RCMP informed the landlord that multiple tenants have complained to the RCMP about the disturbances coming from the rental unit. The RCMP informed the landlord that they took the male tenant away after threats were made against another tenant and the tenant smashed a bottle against the building.

The landlords conveyed that they need to protect the quiet enjoyment of the other tenants and that the other tenants are fearful to leave their own units. The landlord testified that most tenants complained verbally to the landlord but that the landlord asked tenants to put their complaints in writing in support of this application.

As evidence for this hearing the landlord provided copies of the three warning letters, five letters of complaint written by other tenants, the 1 Month Notice to End Tenancy for Cause and the tenancy agreement.

Analysis

Under section 56 of the Act a Dispute Resolution Officer will order that a tenancy end early and provide the landlord with an Order of Possession where:

- (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.

Upon review of the complaint letters written by the other tenants I find that they corroborate the testimony of the landlord. I also accept that the police have attended the property numerous times and the tenants are conducting themselves in such a manner that the other occupants of the property have been significantly interfered with or unreasonably disturbed by the tenants or persons permitted on the property by the tenants. Further, I am satisfied that this is an urgent situation given the nature of the disturbances and the tenants wilful disregard for other occupants. Therefore, I find it is unreasonable to wait for the effective date on the 1 Month Notice to take effect.

In light of the above findings, I order that the tenancy ends two days after service of the enclosed Order of Possession upon the tenants. With this decision I provide the landlord with an Order of Possession to serve upon the tenants and file in The Supreme Court of British Columbia to enforce as an Order of that court.

I award the filing fee to the landlord. The landlord is authorized to deduct \$50.00 from the tenants' security deposit in satisfaction of this award.

Conclusion

I order that the tenancy ends two days after service of the Order of Possession provided to the landlord with this decision. The Order must be served upon the tenants and may be enforced in The Supreme Court of British Columbia.

The landlord is authorized to deduct \$50.00 from the tenants' security deposit to recover the filing fee paid for this application.

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: August 25, 2010.

Dispute Resolution Officer