



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREATER VICTORIA HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FF

Introduction

This hearing dealt with an Application for Dispute Resolution filed on April 11, 2013, by the Landlord to end the tenancy early, to obtain an Order of Possession, and to recover the cost of the filing fee for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Should the Landlord be granted an Order of Possession?

Background and Evidence

The Landlord submitted documentary evidence which included a copy of the tenancy agreement that states the parties entered into a month to month tenancy that began on March 1, 2008. Market value rent at the onset of the tenancy was set at \$212.00 plus \$27.00 for cable television. As of August 31, 2012 the portion of rent paid by the Tenant is \$350.00. At the outset of the tenancy the Tenant paid \$106.00 as the security deposit.

The police Constable attended the hearing and stated that he would be providing evidence as a witness for the Landlord. He advised that he has thirteen (13) years of service with the municipal police force and has experience working in all sections of police work, including the street drug crew and the Emergency Response Team. He currently runs the crime free multi housing program and has been working with the Landlord at this complex to provide a safe environment for this multi housing building.

The Constable stated that he has a high level of experience in detecting criminal behaviour and he has knowledge of the main person or guest being discussed here today. He affirmed that on April 11, 2013, the police were called to attend the Tenant's rental unit to assist in removing two adults from the Tenant's suite. They could not prove if these two adults forced their way in or if the Tenant invited them in. The Constable stated that at least one of these people were known to be actively involved in the narcotics trade and had appeared to be staying with the Tenant. He noted that if this Tenant was allowing these people into that building then he was putting other tenants' safety at significant risk.

The Constable confirmed that people who are associated with the narcotic trade are known to be violent and unpredictable due to the use of drugs. They tend to do drug rips on the wrong apartment or attempt access into other units. In closing, the Constable stated that given his years of experience, if these people were the Tenant's friends then it is beyond reasonable suspicion that these people will show up and push the Tenant out of his apartment again.

The Caretaker affirmed that up until this incident occurred he was at the building Monday through Friday until 3:30 p.m. He stated that he began hearing about the main guest for about the last six or seven months but has never caught him in the building. He has been told that this person has been seen coming and going through the Tenant's ground floor window and has been leaving the back fire exit door open. The Caretaker stated that approximately two weeks ago they alarmed the exit door to assist in keeping that exit as an emergency exit and to prevent it being propped open.

The Caretaker stated that he has had several discussions with the Tenant about this guest and has warned him not to let this person in the building. Based on the complaints from other tenants he determined that this person waits until he leaves at 3:30 p.m. and then shows up at the building and then he is gone before the caretaker arrives in the morning. On April 11, 2013, he went to the building and found out that this person was in the Tenant's unit with another person. He found out that the Tenant was staying in a

neighbors unit and confirmed these two people were in his suite. He called the Landlord who attended with the police and they escorted the two men out of the building.

The Landlord submitted that they have had two previous hearings regarding this Tenant; one in 2008 and another in 2011. They were able to resolve those issues in the past; however this time the Tenant is putting the other tenants in danger so they need to seek the eviction.

The Landlord testified that there are seventy seven (77) bachelor units in this building. The tenants are all hard to house, vulnerable people who may be recovering from some form of substance abuse. He argued that because of their history they do not put complaints in writing for fear of reprisal. They have had word about the presence of this guest for about six or seven months but could not act earlier because they never caught him inside the building.

The Landlord argued that this guest's presence creates a difficult situation as they cannot act as advocates to protect the other tenants. It creates the scenario where the tenants get pushed around and bullied by this person and it becomes "way too dangerous a place for them to be because they will not report him because of fear".

The Landlord affirmed that on April 11, 2013, he was with the police when they were escorting these two guests out of the building and he got in between the main guest and the police. At that time the guest threatened him stating "you're dealing with the wrong guy – you don't know who you're dealing with". He stated that he is scared for the other tenants and he is fearful that this will escalate with this guest if the Tenant is allowed to stay.

The Tenant testified and confirmed that these guests were occupying his rental unit for a few days and they were escorted out by police on April 11, 2013. He stated that he had originally agreed to let them stay for a short time as they were in transition but he did not say they could stay as long as they had.

The Tenant confirmed that the main guest had attended his rental unit on several occasions prior to April 11, 2013, because he had allowed this guest to store his artwork, paintings, and carvings at his unit. He confirmed that he knows of this guest's lifestyle. He later defined the lifestyle as being involved in the drug trade.

The Tenant argued that this guest is at the building regularly to see another tenant on the third floor. He confirmed this guest has entered through his rental unit window and that the night he came with his friend they entered through the window. He argued that

he did not encourage him to come and did not invite the two of them in but confirmed he did nothing to stop them. He said this guest knows not to ring his buzzer.

The Tenant stated that there have been times that this guest has been “in between places which goes with the lifestyle” and that during those times he has been at his apartment. He acknowledged that this person has been at his apartment a couple of times. The Tenant stated that he recalls having conversations with the caretaker about this guest and that he knows the caretaker was not happy with that guest being in his unit. He admitted that he still let him be in the building.

The Tenant confirmed that he still has this guest’s art work. He stated that since April 11, 2013 he moved the artwork into his storage area. He clarified that the lifestyle he was referring to was that of a street person involved in the drug lifestyle.

In closing the Landlord stated that on April 17, 2013, he was at the building attending to a different matter when two police vehicles attended seeking information about this guest. He alleged that the police attended this building because this guest was known to frequent it. He noted that they acted quickly to evict this Tenant making application the same day as the incident, once they had first hand evidence to prove this person was occupying the Tenant’s rental unit.

Analysis

Section 56 of the *Act* allows a tenancy to be ended early without waiting for the effective date of a one month Notice to End Tenancy if there is evidence that the tenants have breached their obligations under the tenancy agreement or *Act* and it would be unreasonable or unfair to wait for the effective date of a one month Notice to End Tenancy.

Based on the foregoing, I place more weight on the oral testimony of the police Constable, the Landlord, and the caretaker, than the testimony of the Tenant because their evidence was forthright and credible; while the Tenant’s evidence was at most times evasive. Given the circumstances presented to me during this proceeding; I find that the Tenant has significantly breached the *Act* by allowing this guest into the building which has placed other tenants’ safety at risk. Based on this conclusion I find that the landlord has established sufficient cause to end this tenancy.

Next I have considered whether it would be unreasonable or unfair to the Landlord to wait for a one month Notice to End Tenancy to take effect. I accept that the Tenant has a friendship or relationship with this person and the fact that the Tenant still has this

guest's art work stored inside the building, gives way to a high probability that this guest will re-visit the building. I also accept that the Tenant's guest threatened to cause harm to the Landlord while he was being escorted out of the building on April 11, 2013. Based on these conclusions I find it would be unreasonable to wait for a one month Notice to End Tenancy to take effect. This type of relationship creates the possibility for the Landlord or other tenants to suffer a loss or damage. Accordingly, I grant the Landlord's application to end this tenancy early.

The Landlord has been successful with their application; therefore I award recovery of the **\$50.00** filing fee

Conclusion

I HEREBY GRANT the Landlord an Order of Possession effective **two (2) days** after it is served upon the tenants. This Order may be filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord may recover the \$50.00 filing fee paid for this application by deducting the one time award from the Tenants' security deposit.

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: April 19, 2013

Residential Tenancy Branch

