



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 for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord and his witness

The landlord testified he served the tenant with the notice of hearing documents and his Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on January 23, 2012 in accordance with Section 89 and on January 24, 2012 and that both services were witnessed by a third party.

The landlord's witness testified that she observed the landlord serve the tenant with notice of this hearing personally on January 23, 2012 at 9:00 p.m.

Based on the testimony of the landlord and his witness, I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to end the tenancy early and obtain an order of possession, pursuant to Section 56 of the *Act*.

Background and Evidence

The landlord testified the tenancy began in December 2011 but the tenant has not paid any rent or the security deposit. The landlord has served the tenant with two 10 Day Notices to End Tenancy for Unpaid Rent.

The landlord testified that the tenant refuses to pay the rent and has told the landlord and members of his family that there is no intention to pay the rent but if the landlord bothers the tenant the tenant will burn the house down.

The landlord's witness testified that on January 18, 2011 she went to the rental unit because the power had gone off and the breakers are in the rental unit and to see if the tenant was going to pay rent. The witness testified that the tenant then pushed the

witness who was holding the landlord's child away and started yelling and threatening the witness.

Analysis

Section 56 of the *Act* states that a landlord may request an order 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 granting the landlord an order of possession in respect of the rental unit.

The section goes on to say 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:

- (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.

In the absence of any testimony from the tenant to dispute the testimony of the landlord and his witness, I find that the tenant has 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 interest of the landlord or another occupant; and put the landlord's property at significant risk.

In addition, I find that due to the nature of the threats made by the tenant it would be unreasonable for the landlord and all other occupants in the residential property to wait for a notice to end the tenancy under Section 47 (1 month) to take effect.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails 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: February 02, 2012.

Residential Tenancy Branch