

DECISION

Dispute Codes ET, FF

Introduction

This hearing was convened in response to an application by the Landlord for an early end of tenancy and an Order of Possession pursuant to section 56 of the *Residential Tenancy Act* (the “Act”). The application also includes recovery of the filing fee.

I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing by posting the materials on the door in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession?

Background and Evidence

The tenancy began on December 27, 2011. The Tenants’ unit is the basement suite of a house and the Landlord lives in the upper house. A new tenant and her son live in a third suite next to the Tenant’s unit. On two occasions in approximately May 2012, the Tenant started to act strangely and appeared to be on drugs. The Landlord saw the Tenant jump the fence into the neighbour’s yard and then returned to the unit’s yard and stood looking around. The police arrived on this occasion and removed the Tenant. In the beginning of June 2012, the Tenant started banging on the doors and walls of the unit in the middle of the night and frightened the new tenant in the third suite as well as the Landlord and his family living in the upper house. The Landlord did not move to evict or warn the Tenant at this time as the Tenant’s girlfriend was pregnant and they did not want to bother the Tenant too much.

On June 22, the Tenant took a table leg and started banging on the new tenant's door, breaking the door while stating that he would kill the son of the new tenant. The Tenant also threatened the Landlord's family member who witnessed the incident by saying that he would "kill all of you" if anyone made any problems for him. The police were called however by the time they arrived, the Tenant was gone. The police put out an alert for the Tenant and attended the unit each day on June 23, 24, 26 and 26 to check for the Tenant however the Tenant was not in the unit. On June 26, the Tenant returned to the unit and told the Landlord that he would be moving out of the unit soon. The police were called and arrested the Tenant on the street. The police informed the Landlord that the Tenant was released on conditions but that since his release, the Tenant's family has reported the Tenant missing. The police informed the Landlord that the Tenant has mental problems and believed the new tenant was his mother and the new tenant's son was his brother. The police informed the Landlord that the Tenant has problems with his family. The Landlord asks for an immediate order of possession as his family and new tenant are afraid and the Landlord's daughter is at home alone during the day.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier than it would end if the landlord issued a 1 Month Notice to End Tenancy for Cause and obtain an Order of Possession in certain circumstances. It is not necessary for the landlord to issue a 1 Month Notice; however, the landlord must show that:

- (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 consideration of the undisputed evidence before me, I am satisfied that the Landlord faces serious jeopardy and that it would be unreasonable or unfair to the Landlord to wait for a 1 Month Notice to take effect. Accordingly, I find that the Landlord is entitled to an Order of Possession. The tenancy therefore ends and the tenants must vacate the rental unit two (2) days after service of the Order of Possession provided to the Landlord with this decision.

As the Landlord has been successful with the application, I find that the Landlord is entitled to recovery of the \$50.00 filing fee and I order the Landlord to retain \$50.00 from the security deposit.

Conclusion

I grant an Order of Possession to the Landlord, effective immediately. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I Order the Landlord to retain \$50.00 from the 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: July 03, 2012.

Residential Tenancy Branch