



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an early end of the tenancy, an Order of possession and to recover the filing fee from the tenants for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing were personally delivered to the female tenant during the evening of July 9, 2012, at the rental unit.

These documents are deemed to have been served in accordance with section 89 of the Act; however, the tenants did not appear at the hearing.

I find, pursuant to section 89(2) of the Act, that the male tenant was served with Notice of this hearing, via the adult, female tenant, with whom he resides.

Preliminary Matters

As evidence, the landlord submitted a letter signed by his realtor; this document was not given to the tenants and was not considered.

After the landlord provided his testimony the landlord's realtor was called into the hearing to provide affirmed testimony. The witness testified that she was present on July 9, 2012, when the tenant was served with Notice of the hearing.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?

Is the landlord entitled to an Order of possession?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced approximately 2 years ago.

The landlord stated that the tenants have not paid rent for the last 3 months and that he has been repeatedly told rent will be paid.

On July 29, 2012, the landlord and his real estate agent went to the property to view the backyard, in preparation for a showing of the unit the next day. The tenant and landlord had a disagreement in relation to payment of rent. The agent witnessed the tenant shove the landlord; causing the landlord to fall backward, onto the gravel driveway.

The realtor stated that the tenant is a much larger man than the landlord; that he pushed the landlord using a lot of force. The police were called and suggested the landlord proceed with charges against the male tenant. The landlord has chosen not to go through the Court process, but wants the tenancy to end as his safety was threatened.

The realtor confirmed that she is not sure of the male tenant's name; she can identify him.

The landlord's witness stated that while the tenants have not threatened her, she is now fearful and will not complete a showing of the home unless she has someone else accompany her.

Analysis

In order to establish grounds to end the tenancy early, the landlord must not only establish that he has cause to end the tenancy, but that it would be unreasonable or unfair to require the landlord to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the testimony of the landlord and his witness, I find that the landlord has met that burden.

Despite having been served with Notice of the hearing the tenants did not attend to respond to the details of the dispute, outlined in the application; that alleged the tenant had assaulted the landlord.

The landlord has the right to talk with the tenant without the fear of being assaulted. I find, on the balance of probabilities, that the landlord was pushed, with force, causing him to fall backward onto the gravel driveway.

Section 56(2) of the Act sets out the grounds for ending a tenancy early:

(2) 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 satisfied, in the case of a landlord's application,

(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.

(Emphasis added)

I find that the physical attack on the landlord provides the basis for an early end of this tenancy as provided by section 62(2)(a)(ii). Further, the tenant has caused the realtor to be fearful resulting in her having to bring another person with her to showings; which I find is an outcome of the tenant's behaviour.

Secondly, in the circumstances it would be unreasonable and unfair to require the landlord to wait for a notice to end the tenancy under section 47 of the Act. The landlord is not secure in having any contact with the tenant and this is as a result of the tenant's assaultive behaviour; which I find poses a safety threat to the landlord.

Therefore; I find that the landlord is entitled to an Order of possession. An Order of possession has been issued and may be filed in the Supreme Court and enforced as an Order of that Court.

As the landlord's Application has merit I find that the landlord is entitled to filing fee costs in the sum of \$50.

Conclusion

The landlord has been granted an Order of possession that is effective **immediately**. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution and I grant the landlord a monetary Order in that amount. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 17, 2012.

Residential Tenancy Branch