



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 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”). I accept the Landlord’s evidence that the Tenant was served by a bailiff 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 January 1, 2012 on a fixed term to December 31, 2012. At the onset of the tenancy, the Landlord collected a total amount of \$875.00 for a pet and security deposit. The Landlord states that on July 24, 2012, while conducting an inspection of the unit, the Tenant assaulted and threatened the Landlord. The Tenant now has a restraining order against him and has been charged with assault and uttering threats in relation to the incident. The Witness, a member of the Strata Council, states that the Tenant threatened to kill the Landlord if the Landlord returned to the unit. Further, the Tenant also assaulted the bailiff who attended the unit to serve the Hearing documents. The Landlord states that it would be unfair or unreasonable to wait for a one month notice to end tenancy to take effect as the Tenant’s behaviour has become increasingly hostile and the Landlord is afraid of further assaults or further damage to the unit. The Landlord states that some damage already exists in the unit.

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 Tenant 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 also entitled to recovery of the \$50.00 filing fee and I order the Landlord to retain this amount from the security and pet deposit.

Conclusion

I grant an Order of Possession to the Landlord. 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.

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 08, 2012.

Residential Tenancy Branch