



Dispute Resolution Services

Page: 1

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 the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* personally on February 4, 2013 in accordance with Section 89 and that this service was witnessed by 4 local police officers.

Based on the testimony of the landlord, 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 an order of possession to end the tenancy early, pursuant to Section 56 of the *Act*.

Background and Evidence

The landlord testified the tenancy began in 2010 and is currently a month to month tenancy with a monthly rent of \$500.00 due on the 1st of each month.

The landlord also testified that on January 25, 2013 he attended the rental unit to address some complaints of the other tenants in the residential property regard actions of this tenant and that during the meeting the tenant became aggressive. The landlord submits that when asked the tenant to stop being verbally violent the tenant responded by stating he would show the landlord violence and attempted to attack the landlord.

The landlord also submits that on January 30, 2013 he had hired a locksmith to replace locks at the residential property and while the locksmith was at the property the landlord's agent called the landlord to advise him that the tenant was chasing another tenant around the property with a metal pipe.

The witness confirmed that he was the tenant that this tenant was chasing on the property that day with the metal pipe and that while the tenant did not attack this witness with the pipe he did assault him.

The landlord also testified that the police have been called to the property 10 times as a result of this tenant's actions since he served the tenant with the notice of this hearing on Monday, February 4, 2013.

Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or
 - 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 rental unit or residential property;
- b) And 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 to take effect.

From the undisputed testimony of the landlord and his witness I find the landlord has established that the tenant has seriously jeopardized the health and safety of both the landlord and at least one other occupant in the rental unit.

I also find that the tenant's assaults and attempted assaults are of such a serious nature and potential danger that it would make it unreasonable for the other occupants and landlord to have to wait for a notice to end tenancy under Section 47 to take effect.

In addition, I find the nature of the potential danger to all of the other occupants is sufficient to warrant ending the tenancy immediately upon service of the order of possession.

Conclusion

I find the landlord is entitled to an order of possession effective **immediately 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 08, 2013

Residential Tenancy Branch