



Dispute Resolution Services

Page: 1

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 and an Order of possession and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on May 8, 2013 at 8 p.m. copies of the Application for Dispute Resolution and Notice of Hearing were personally served to the tenant, at the rental unit. Both landlord's and a neighbour were present. A copy of a signed proof of service document was supplied as evidence of service; this document was signed by the neighbour and each landlord.

These documents are deemed to have been served in accordance with section 89 of the *Act*, however the tenant did not appear at 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 on April 1 2013. The tenant rents a unit in the basement of the landlord's home. The landlord and their 8 year old daughter live in the upper unit.

The landlord said that the tenant has changed the locks to the home without permission and that there has been some conflict with the tenant. The tenant has sent messages to the landlord saying he would move out but formal notice was not given.

On May 2, 2013 the female landlord was at home alone, when she went to the garbage can that is just outside of the tenant's door. When she was opening the can the tenant came to his door and began to yell at the landlord. He told the landlord that if they served him with any more documents he would come upstairs and do to the female landlord and her daughter things that her husband has never done.

The landlord's neighbour was at her window and heard the tenant yelling. The witness testified that she heard the tenant threaten the female landlord; telling her he would come upstairs and do things to the landlord and her daughter that the husband had not done. The witness found the threat disturbing. The landlord came over to the neighbour's home immediately after the altercation with the tenant; she was upset and crying.

The landlord's both stated that since the May 2 incident they have been fearful. The female landlord is often alone with her daughter and has been placing a barricade across the door, in fear of illegal entry by the tenant. The parent's fear has had an impact on their daughter, who is also stressed by the concern she sees in her parents.

Initially the landlord was going to use the direct request proceeding process to obtain an Order of possession, but the delay was too great. Once the landlord realized the time delay could occur they elected to make the request for an early end of the tenancy. The parties have another hearing scheduled for June 5, 2013; as the result of alleged non-payment of May 20-13 rent.

On May 5, 2013 the tenant left the unit, leaving only a few items behind. The door was left open and keys were left in the unit.

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 their witness, I find that the landlord has met that burden.

In relation to sufficient cause, I find that the threat made on May 2, 2016 against the female landlord and her 8 year old daughter was significant and caused an unreasonable disturbance to the landlord. I accept that a threat of this nature was sufficient to cause the landlord to fear for her safety and to be frightened while at home with her young daughter, particularly when her spouse is not home.

I find that a significant disturbance would be one which was substantial or serious in nature and, that serious jeopardy must reflect a situation, as defined by **Black's Law Dictionary** that includes a "danger; hazard; peril." When the tenant threatened the landlord and her daughter, this left the landlord fearing for her safety and uncomfortable

in her home. Both landlords' were apprehensive and worried that the tenant could act on his threat.

Secondly, I find, in the circumstances, that it would be unreasonable and unfair to require the landlord to wait for a notice to end the tenancy under s. 47. A delay would mean further stress and apprehension by the landlord and their young child; a direct result of the threat made by the tenant. Therefore I find that the landlord is entitled to an Order for possession.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

As the landlord's Application has merit I find that the landlord is entitled to the sum of \$50 being the cost of the filing fee paid pursuant to section 59.

Based on these determinations I grant the landlord a monetary Order in the sum of \$50.00. In the event that the tenant does not comply with this Order, it may be served on the tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

Conclusion

The landlord is entitled to an order of possession.

The landlord is entitled to filing fee costs.

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: May 16, 2013

Residential Tenancy Branch

