



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Metamorphic Properties Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:44 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord's male representative at this hearing (the landlord) provided witnessed written evidence that the landlord's female contractor (the contractor) handed the tenant a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on July 17, 2013. The contractor gave sworn oral testimony confirming her service of the 1 Month Notice to the tenant on that date. The landlord testified that he sent the tenant a copy of the landlord's dispute resolution hearing package by registered mail on August 1, 2013. He provided the Canada Post Tracking Number to confirm this registered mailing. I am satisfied that the landlord served the above documents and the landlord's written evidence package to the tenant in accordance with the *Act*.

Issues(s) to be Decided

Is the landlord entitled to end this tenancy early and obtain an Order of Possession? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This one-year fixed term tenancy began on November 1, 2012. Monthly rent is set at \$850.00, payable in advance on the first of each month, plus hydro. The landlord continues to hold the tenant's \$425.00 security deposit paid on or about November 1, 2012.

The landlord entered into written evidence a copy of the 1 Month Notice of July 17, 2013. In that Notice, requiring the tenant to end this tenancy by August 17, 2013, the landlord cited the following reasons for the issuance of the Notice:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

As I noted at the hearing, the earliest possible date that the 1 Month Notice could take effect was August 31, 2013, and not the August 17, 2013 effective date identified on the landlord's 1 Month Notice.

The landlord and the contractor described a number of actions and behaviours that prompted the landlord to apply for an early end to this tenancy. In the Details of the Dispute section of the landlord's application for an early end to tenancy, the landlord provided the follow description of the tenant's actions.

The tenant has chased 3 tenants away from the building with his threatening, abusive behaviour. He is continually harassing the agent for the landlord and he physically abused his ex wife in front of numerous current and past tenants – this particular episode resulted in his destruction the locking mechanism to the front door of the apartment.

Both the landlord and the contractor said that they have been harassed by the tenant. They testified that the tenant's actions have led to three tenants leaving this multi-unit rental building. They said that the tenant's actions regarding anyone who has lived above him have been particularly disruptive. When an upstairs tenant walks across the floor of that living unit, he bangs on the ceiling. The landlord also described the tenant's practice of running a very noisy power sander very close to the ceiling at very early hours of the morning to disrupt the sleep of the upstairs tenant. The landlord and his contractor maintained that the contractor cannot show some of the rental units to prospective tenants because of the tenant's behaviours when she attempts to do so. They were especially concerned about the recent escalation of the tenant's actions when he punched his ex-wife in the head in front of other tenants. In that incident, he also damaged the locking mechanism of the door to the rental unit such that it remains inoperational.

At the hearing, the landlord said that the tenant has advised the contractor that he intends to vacate the rental unit soon. However, the landlord expressed concern about allowing the tenancy to continue beyond the end of August 2013, as the tenant's behaviours have been escalating and present a serious obstacle to those living in this rental building and to the landlord's ability to obtain and retain tenants.

Analysis

Section 56 (2) of the *Act* permits me to make an order specifying an earlier date for the end of a tenancy than would be the case had the landlord issued a one month notice to end a tenancy for cause, only if I am satisfied that, among other matters, the tenant has

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord; or
- put the landlord's property at significant risk.

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 [*landlord's notice: cause*] to take effect.

Section 56 (3) of the *Act* provides that if an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

In this case, I am satisfied that the landlord has provided undisputed evidence that the tenant's behaviours and actions have unreasonably disturbed other tenants in this multi-tenanted rental building and the landlord. There has been damage to the rental unit and a series of disruptive incidents, which prompted the landlord to issue a 1 Month Notice on July 17, 2013. While the tenant was alerted by the landlord's 1 Month Notice that his tenancy may be ending as early as August 17, 2013, I find that the recent incident involving violence and damage to the entrance door of the rental unit has raised the tenant's conduct to a new level that is frightening to the landlord and his other tenants. I therefore find that it would be unreasonable and unfair to the landlord and his other tenants to wait for a notice to end tenancy for cause to take effect.

As the landlord said that the tenant is planning to leave the rental unit soon and it may be unnecessary to utilize the Order of Possession from this hearing, the landlord stated that he would be satisfied with an Order of Possession to take effect by the end of August 2013. Based on the landlord's statement, I issue an Order of Possession to the landlord to take effect by 1:00 p.m. on August 31, 2013.

As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

Conclusion

I allow the landlord's application to end this tenancy early. I grant the landlord an Order of Possession effective August 31, 2013, to be served to the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlord to recover the filing fee for this application from the tenant by retaining \$50.00 from the tenant's \$425.00 security deposit. The revised value of the tenant's security deposit is now \$375.00.

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 16, 2013

Residential Tenancy Branch

