



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 by way of conference call in response to the landlord's application for an Order of Possession for an Early End to Tenancy.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on July 21, 2015. Canada Post tracking numbers were provided by the landlord in sworn testimony. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy early and gain an Order of Possession on the basis of this application pursuant to section 56 of the *Act*?

Background and Evidence

The landlord testified that this month to month tenancy started on May 01, 2014. Rent for this unit is \$600.00 per month due on the 1st of each month.

The landlord testified that the tenant has been harassing the landlord who lives in the same building as the tenant. On July 19, 2015 the landlord went to ask the tenant for

the rent but the tenant refused to pay. The landlord also asked the tenant not to put her things outside as there are other tenants. The tenant became violent and hit the landlord in the face, the shoulder and the back and then pushed the landlord on the ground. The landlord called the police and the police came to the building and told the landlord to contact the Residential Tenancy Branch. The police informed the landlord that they were going to charge the tenant with assault and provided a police file number to the landlord which has been provided in documentary evidence.

The landlord testified that the police advised the landlord to go to see her doctor concerning her injuries. The landlord has provided a record of that doctor's visit which details the landlord's injuries. This doctor's report details that the landlord was assaulted by her tenant she was struck in the upper back and thrown to the floor she is complaining of neck and back pain and has a headache. The doctor documents his examination of the landlord and found the landlord has reduced rotation to the c-spine she has TOP throughout the upper back, the LS spine ROM is reduced, there is bruising to the upper back and her BP is elevated.

The landlord testified that the police told the tenant to stay away from the landlord after the assault; however, the tenant again came at the landlord's back when the landlord was putting garbage out. The landlord ran into her home and locked the door. The tenant has also come to the landlord's door and knocked on two occasions since the assault but the landlord will not open the door.

The landlord seeks an Order of Possession to end the tenancy as soon as possible to protect the landlord from further assaults.

Analysis

An early end to a tenancy under s. 56(2) of the *Residential Tenancy Act (Act)* is only given in extraordinary circumstances and only when the applicants can show that the situation is so extreme that it would not be reasonable to require the normal one Month Notice to End Tenancy given under section 47 of the *Act*. An early end to tenancy is granted and an

Order of Possession for the rental unit is given if the tenant or persons 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.*
- (3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.*

I have considered the evidence before me and find the landlord's evidence has merit, the landlord has shown that an assault took place by the tenant on the landlord and despite warnings from the police to stay away from the landlord the tenant has continued to approach the landlord. The landlord is entitled to feel safe in her own home without fear of assault from a tenant. I find the tenant has significantly interfered with the landlord's safety and physical wellbeing.

I am therefore satisfied from the evidence before me that it would be unreasonable and unfair for the landlord to wait for a One Month Notice to End Tenancy under section 47

of the *Act* to take effect, as in doing so it may put the landlord at significant risk and endanger the safety of the landlord.

Conclusion

The landlords' application for an Order to End Tenancy Early is granted. An Order of Possession has been issued to the landlord pursuant to s. 56 of the *Act*. This Order is effective **two days** after service on the tenant. A copy of this Order must be served on the tenant. If the tenant does not comply with the Order, the Order is enforceable through the Supreme Court of British Columbia.

I find that the landlord is entitled to be reimbursed the **\$50.00** cost of filing this application pursuant to s. 72(1) of the *Act*. The landlord has been issued with a Monetary Order for this amount. The landlord must serve a copy of the Order upon the tenant. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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 19, 2015

Residential Tenancy Branch

