



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 pursuant to the *Residential Tenancy Act* ("Act") for:

- an early end to this tenancy and an Order of Possession, pursuant to section 56.

The tenant did not attend this hearing, which lasted approximately 40 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. "Witness AR" provided affirmed testimony on behalf of the landlord at this hearing.

The landlord testified that he personally served the tenant with the landlord's application for dispute resolution hearing package ("Application") on January 5, 2016. The tenant's legal advocate also sent in seven pages of written evidence to the Residential Tenancy Branch on January 19, 2016, quoting the landlord's Application file number for this hearing. I find that this is an acknowledgement by the tenant of her receipt of the landlord's Application. In accordance with section 89 of the Act, I find that the tenant was served with the landlord's Application on January 5, 2016.

Issues to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord and witness AR, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below.

The landlord testified that this month-to-month tenancy began on May 1, 2015. Monthly rent in the amount of \$650.00 is payable on the first day of each month. A security deposit of \$312.50 was paid by the tenant and the landlord continues to retain this deposit. The tenant continues to reside in the rental unit. The rental unit is a two-level house, whereby the tenant occupies the basement level. The landlord confirmed that the tenant's son lives on the main floor with the landlord's knowledge and that he has been served with a notice to end tenancy to vacate the property. The landlord maintained that three to four additional occupants, including the tenant's brother, live at the rental property without the landlord's permission.

The landlord testified that an incident occurred at the rental unit on December 22, 2015. The landlord confirmed that he was performing repairs to the roof at the rental property when the tenant's brother confronted and assaulted him. The landlord confirmed that the tenant's brother punched him twice in the face and that he was required to rush to the hospital immediately after. The landlord explained that he stayed in the hospital overnight and was released on December 23, 2015.

The landlord stated that he suffered a concussion as well as fractured bones in his face around his eyes, nose and jaw. The landlord stated that he had to return to the hospital three times after December 23, 2015 and that he continues to see doctors about these injuries most recently on January 17, 2016. The landlord explained that he continues to suffer from blurred vision and eating limitations, due to his injuries. The landlord provided a photograph of the injuries to his face, as well as a CT scan confirming his injuries.

The landlord maintained that he reported the incident to the police, who have charged the tenant's brother with assault. The landlord provided a copy of the business cards of the two police officers, to whom he reported the incident. The landlord confirmed that the tenant's brother is not in jail and a court date is pending for April 2016. The landlord also provided a copy of his medications and hospital discharge instructions.

The landlord stated that he is fearful to return to the rental property, due to this incident with the tenant's brother. He confirmed that while he used to live on the upper floor of the property and subsequently a motorhome on the property, he has now moved his motorhome off the property. The landlord indicated that he has lived away from the rental property since the incident and that he only returned once on December 23, 2015, with the police and a witness.

Witness AR testified that she has observed that the landlord is fearful to return to the rental property. Witness AR testified that she has seen the effects of the landlord's

injuries; she confirmed that the landlord attended at the hospital, that he received medical attention and that he continues to suffer from injuries due to the incident.

The landlord provided photographs as well as witness statements regarding damage caused to the rental property by other occupants. The landlord stated that the tenant has permitted other occupants onto the rental property without the landlord's permission, that the tenant is likely collecting rent from them, and that these occupants are threatening as they brandish weapons such as baseball bats and knives when the landlord has previously attended at the rental property.

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 1 Month Notice to End Tenancy for Cause ("1 Month Notice") under section 47 to the tenant. This can only be done if I am satisfied that, in accordance with sections 56(2)(a)(i) and (ii) of the *Act*, a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed the landlord or seriously jeopardized the health or safety or lawful right or interest of the landlord AND it would be unreasonable, or unfair to the landlord to wait for a 1 Month Notice 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 1 Month Notice.

I find that the tenant's brother committed a serious assault against the landlord on December 22, 2015, causing injuries requiring medical attention. I find that the landlord is fearful to live or attend at the rental unit due to this incident and that the incident has been reported to the police. On a balance of probabilities and based on the landlord's undisputed evidence, I am satisfied that the tenant's brother, a person permitted on the property by the tenant, has significantly interfered with and unreasonably disturbed the landlord as well as seriously jeopardized the health, safety, lawful right and interest of the landlord AND that it would be unreasonable and unfair to the landlord to wait for a 1 Month Notice to take effect. As I have found evidence on these two grounds, I need not consider the landlord's other claims related to damage of the rental property or the behaviour of other occupants at the property.

Accordingly, I order that this tenancy is ended effective on the date of this hearing and this decision, January 27, 2016. I find that the landlord is entitled to an order for possession effective two (2) days after service on the tenant.

Conclusion

The landlord's application for an early end to this tenancy is allowed.

I grant an **Order of Possession to the landlord effective two (2) days after service on the tenant**. Should the **tenant or any other occupants** on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: January 27, 2016

Residential Tenancy Branch

