



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlords' Application for Dispute Resolution seeking to end the tenancy early.

The hearing was conducted via teleconference and was attended by both landlords. I note the landlord had arranged for 4 witnesses to attend this hearing, however, none of the witnesses was called to provide any testimony.

The male landlord testified each 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)* by posting them on the rental unit door on August 29, 2016 in accordance with Section 89. The landlords have provided photographic evidence to confirm this service. Section 90 of the *Act* deems documents served in such a manner to be received on the 3rd day after they have been mailed.

Based on the testimony and evidence of the landlords, I find that each tenant has been sufficiently served with the documents pursuant to the *Act*.

At the outset of the hearing I confirmed with the landlord that they had incorrectly named the female tenant. I amend the landlord's Application for Dispute Resolution to reflect the correct name of the female tenant.

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 and without notice and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 38, 56, 67, and 72 of the *Act*.

Background and Evidence

The landlords submit the tenancy began on August 1, 2016 on a month to month basis for a monthly rent of \$1,200.00 due on the 1st of each month with a security deposit of \$600.00 paid.

The landlords submit that from the beginning of the tenancy the tenants had regular yelling and fighting incidents and that on August 25, 2016 the landlords provided the tenants with a warning letter cautioning the tenants that should they continue their disruptive behaviour the landlords would end the tenancy.

The landlords submit that after they provided this warning police were called and the officer suggested that the landlords may wish to start eviction proceedings. On August 26, 2016 the landlord issued the tenants a 1 Month Notice to End Tenancy for Cause.

After continued disturbances from the tenants after receiving the 1 Month Notice the landlord's contacted police again. This time the landlords submit the police officer recommend seeking an early end to the tenancy.

The landlords submit that they served the tenants with some of their evidence on September 14, 2016. They submit that on September 15, 2016 the tenant and his friend, who now appears to be living in the rental unit, began pounding on the landlord's door threatening that they "will fix you". The landlords submitted that they called police and they were informed later by police that the tenant's friend was arrested for outstanding warrants in Alberta.

The landlords stated that as result of this escalating behaviour police have advised the landlords that they should be staying in alternate accommodation until these matters are resolved. The landlords submit that they have done so and that they had been staying at an alternate location and when they returned on September 18, 2016 they found blood stains and cigarette butts in their yard.

The landlords submit that they were informed by police that an altercation had occurred on September 17, 2016 and the tenant had been stabbed by his acquaintance during a party the tenant was having.

Analysis

Section 56(1) of the *Act* allows a landlord may make an application for dispute resolution to request an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [landlord's notice: cause], and granting the landlord an order of possession in respect of the rental unit.

Section 56(2) states the director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application, the tenant or a person 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; or
- (v) Caused extraordinary damage to the residential property, 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.

If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

Based on the undisputed evidence and testimony of the landlords, I find that the landlords have established that the tenants have unreasonably disturbed and significantly interfered with the landlords and seriously jeopardized the health and safety of the landlords.

Based on the landlords' testimony and evidence that the tenant's disruptive behaviour has escalated since both the issuance of the warning and the 1 Month Notice to End Tenancy to a level that has impacted the landlords' safety on the property, I find that it would be unreasonable for the landlords to wait for a notice to end tenancy under Section 47 of the *Act* to take effect.

Conclusion

Based on the above, I find the landlords are entitled to an order of possession effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fail to comply with this order the landlords may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlords are entitled to monetary compensation pursuant to Section 67 in the amount of **\$100.00** comprised of the fee paid by the landlords for this application.

I order the landlord may deduct this amount from the security deposit held in the amount of \$600.00 in satisfaction of this claim, pursuant to Section 72(2)(b). As a result, I note

the security deposit balance will be \$500.00 to be dispersed in accordance with all requirements under the *Act* at the end of the tenancy.

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: September 29, 2016

Residential Tenancy Branch

