



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

The Application for Dispute Resolution filed by the landlord makes the following claims:

- a. An Order for the early termination of the tenancy.
- b. An Order for Possession.
- c. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the one month Notice to End Tenancy dated August 28, 2016 was sufficiently served on the Tenant by posting on August 28, 2016. Further I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenants by posting on September 21, 2016. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an Order for the early termination of the tenancy?
- b. Whether the landlord is entitled to an Order for Possession?
- c. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a tenancy agreement approximately 5 months ago. The rent is \$900 per month payable on the first day of each month. The tenants paid a security deposit of \$450 at the start of the tenancy.

In late July the landlord was having a barbecue with a couple of friend on his balcony. The tenant took offense to the noise. The tenant then came upstairs and viciously

assaulted the landlord. The landlord suffered multiple contusions and abrasions and spent the night in hospital. He was punched over 15 times by the male Tenant. The male Tenant also assaulted the female landlord when she tried to stop the assault.

The landlord testified the tenant has not served him with an application to dispute the one month Notice to End Tenancy that set the end of tenancy for September 30, 2016. The tenants have significant criminal records. The landlord fears for his safety and the safety of his family. The tenants have not paid the rent for October. The tenant(s) have remained in the rental unit.

Analysis - Order of Possession:

The Notice to End relies on the following grounds:

- Tenant or a person permitted on the property by the tenant has:
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord

Section 56 of the Residential Tenancy Act provides as follows:

Application for order ending tenancy early

56 (1) A landlord may make an application for dispute resolution to request an order

- (a) 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
- (b) granting the landlord an order of possession in respect of the rental unit.

(2) 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,

- (a) 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;

(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 determined there are sufficient grounds for the early end of the tenancy. The tenant viciously assaulted the landlord causing bodily injury. He has seriously jeopardized the health or safety of the landlord.

Further, the Tenant(s) have not made an application to set aside the Notice to End Tenancy and the time to do so has expired. In such situations the Residential Tenancy Act provides the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and must vacate the rental unit by that date. Finally the tenants have failed to pay the rent for October. Accordingly, I granted the landlord an Order for Possession on 2 days notice.

The tenants must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

As the landlord has been successful I order that the Tenants pay to the Landlord the sum of \$100 for the cost of the filing fee such sum may be deducted from the security deposit.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

Conclusion:

I granted an Order for the early termination of the tenancy and granted an Order for Possession on 2 days notice. I further ordered that the tenants pay to the landlords the sum of \$100 for the cost of the filing fee such sum may be deducted from the security deposit.

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: October 20, 2016

Residential Tenancy Branch