



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (the "Application") under the *Residential Tenancy Act* (the "Act") seeking an order of possession to end the tenancy early and to recover the cost of the filing fee.

The landlord and the agent/daughter of the landlord attended the teleconference hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice of Hearing"), the Application, and documentary evidence were considered. The landlord provided affirmed testimony that the Notice of Hearing, Application and documentary evidence were served on the tenants via registered mail on October 25, 2016. The landlord provided a registered mail tracking number in evidence and confirmed that the names and address on the registered mail package matched the names of the tenants and the rental unit address and that the tenants continue to occupy the rental unit. A copy of the registered mail tracking number has been included on the cover page of this decision for ease of reference. Documents sent by registered mail are deemed served five days after mailing pursuant to section 90 of the *Act*. As a result, I find the tenants are deemed served with the Notice of Hearing, the Application and documentary evidence as of October 30, 2016. I note that refusal or neglect on the part of the respondent tenants to accept the registered mail package does not constitute grounds for an Application for Review Consideration under the *Act*.

Issue to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession under section 56 of the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on May 1, 2016. Monthly rent of \$1,600.00 is due on the first day of each month. The tenants' paid a security deposit of \$800.00 at the start of the tenancy which the landlord continues to hold.

The landlord is 85 years old and testified that on October 2, 2016 he and his 58 year old son attended the rental unit and knocked on the tenants' door to collect the monthly rent. The landlord stated that after knocking twice on the front door, the male tenant rushed out of the rental unit and assaulted his son by pushing him off the front steps of the rental unit causing his son to fall to the ground below. The landlord also stated that the tenant then proceeded to run over to his son and got on top of him and when his son's cell phone fell out of the son's pocket the tenant grabbed the cell phone and purposely smashed it on the ground and once it was broken the tenant threw the cell phone further into the yard.

The landlord testified that the RCMP was contacted and assault charges were filed against the male tenant. In addition, charges were filed related to the male tenant damaging the cell phone which belonged to the landlord's son. A police file number was submitted in evidence.

Analysis

Based on the landlord's undisputed documentary evidence and the unopposed testimony provided by the landlord during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant has seriously jeopardized the health or safety or lawful right or interest of the landlord or another occupant. Violent behaviour by a tenant towards a landlord is unacceptable at any time during a tenancy. I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a notice to end tenancy under section 47 of the *Act*.

Therefore, pursuant to section 56 of the *Act*, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service of the Order on the tenants. This order may be enforced through the Supreme Court of British Columbia.

As the landlord's Application is successful, I grant the landlord the full recovery of the cost of the filing fee in the amount of **\$100.00**. I authorize the landlord to retain \$100.00 pursuant to section 72 of the *Act* from the tenants' \$800.00 security deposit in full

satisfaction of the landlord's recovery of the \$100.00 filing fee. I find the tenants' security deposit is now \$700.00 accordingly.

Conclusion

The landlord's Application is successful. The tenancy ends two days after service of the order of possession on the tenants. The tenants must vacate the rental unit accordingly and if they fail to do so, the landlord is at liberty to enforce the order of possession through the Supreme Court.

The landlord has been authorized to retain \$100.00 pursuant to section 72 of the *Act* from the tenants' \$800.00 security deposit in full satisfaction of the landlord's recovery of the \$100.00 filing fee. The tenants' security deposit is now \$700.00 as a result.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*. Pursuant to section 77 of the *Act*, a decision or an order is final and binding, except as otherwise provided in the *Act*.

Dated: November 24, 2016

Residential Tenancy Branch