



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 on an Early End to Tenancy and to recover the filing fee from the tenant for the cost of this application.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by posting the hearing package to the tenant's door with a witness present. The tenant was deemed to be served the hearing documents on the third day after they were posted as per section 90(c) of the *Act*.

The landlord the landlord's husband acting as the landlord's agent and a witness for the landlord appeared and gave sworn testimony. The parties present were 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 or about September 01, 2016. Rent for this unit is \$750.00 per month due on the 1st of each month. There was not a written tenancy agreement but this tenant occupied the tenant unit with another occupant.

The landlord testified that the male and female tenants have been fighting with each other since they moved in. This significantly disturbs the landlord and her young family. After four days of late night fighting the landlord called the police and when they arrived they found the female tenant hitting the male tenant aggressively and the female tenant was removed from the unit. The female tenant was told not to return to the unit but she came back and the fighting started again. The police are called every other day and the police presence and the fighting, screaming, and loud noise is seriously scaring the landlord and their children.

The landlord testified that the police have removed the female tenant again and on one occasion they had to break into the unit as the female tenant was cutting herself. She acted aggressively towards the police and they had to remove her by force. This has had an adverse effect on the landlord's children who witnessed this and they are now also scared of the police. The landlord testified that while the tenants are living in this basement unit the landlord and her family have been disturbed nearly every night with shouting, screaming fighting and banging noise. Even the neighbours have been disturbed by this noise and they have written statements to support this provided in documentary evidence.

The landlord testified that on the day the police had to break into the unit the landlord was allowed to enter to take pictures of the condition of the unit. The tenants had caused considerable damage to the unit there are holes in the walls, a door is broken the front door is damaged, the stove is burnt, the closet door and inside of the closet is

damaged, a window has been broken, the kitchen cabinet doors are missing and the washroom is filthy.

The landlord seeks an Order of Possession to end the tenancy as soon as possible to safeguard the unit from further damage and to stop these disturbances.

The landlord calls her witness JB. The witness testified that he lives next door to the landlord's home and this basement unit. The witness testified that he witnessed the landlord serve the hearing documents on the tenant's door on January 01, 2017. The witness testified that he no longer wants to live in his home due to the noise and disturbances from the tenants next door. The police are always at the unit, the witness can see the tenants smoking something that smells like drugs, the tenants are always fighting both inside and outside the unit and the witness is disturbed by the sounds of shouting, banging and fighting which is mostly at night but happens at any time the tenants are together. The female tenant is very aggressive and this is affecting the neighbours living close by as they want to live in their homes peacefully.

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 to be compelling that the tenants have caused significant disturbances not only to the landlord and her family but to neighbours living next door. I also find from the evidence before me that the tenants have also caused considerable damage to the rental unit which is likely to continue given the level of violent interactions between the tenants that necessitate the female tenant being removed by the police.

I am therefore satisfied 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's property at further significant risk and may create further unsettling disturbances for the landlord's family and their neighbors.

Although the landlord has only named one tenant on her application I find as this tenancy will end that all occupants of the rental unit but vacate the rental unit.

I find that the landlord is entitled to be reimbursed for the **\$100.00** cost of filing this application. I order that the landlord retain this amount from the security deposit of \$300.00 leaving a balance \$200.00 which must be returned to the tenant or otherwise dealt with in compliance with section 38 of the *Act*.

Conclusion

The landlord has been issued an Order of Possession effective **two (2) days** after service upon the tenant named on this application, pursuant to section 55(1) of the *Act*. This Order must be served on the tenant. If the tenant remains in Possession of the rental unit and does not relinquish that possession to the landlord then the Order may be filed in the Supreme Court of British Columbia 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: January 18, 2017

Residential Tenancy Branch