



Dispute Resolution Services

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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* (the Act) for:

- an early end to this tenancy and an order of possession pursuant to section 56.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the landlords served the tenants with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on August 17, 2017. The tenants provided undisputed affirmed testimony that a late evidence package was served to the landlords on August 27, 2017 via courier which the landlords confirmed receiving on August 30, 2017. Neither party raised any issues regarding service or the tenants' late submission of evidence. I accept the undisputed evidence of both parties and that both parties have been sufficiently served as per section 90 of the Act. I accept the tenants' late submission of documentary evidence as the landlords have confirmed receipt of this package and have no issues with the documentary submissions.

Issue(s) to be Decided

Are the landlords entitled to an order of possession to end the tenancy early?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on January 1, 2017 on a fixed term tenancy ending on January 1, 2018 as shown by the submitted copy of the signed tenancy agreement dated October 24, 2016. The monthly rent is \$2,500.00 payable on the 1st day of each month. A security deposit of \$1,250.00 and a pet damage deposit of \$1,250.00 were paid. A condition inspection report for the move-in was completed by both parties on February 9, 2017.

The landlords seek an early end to the tenancy and to obtain an order of possession. The landlord provided affirmed testimony that the landlords safety and the rental property are at risk. The landlords claim "Threats to landlords and aggressive behaviour." The landlords stated that they can't access the property without police escort due to safety and that there is damage to the property. The landlords stated that they are in the process of obtaining a "peace bond" to obtain a no contact order with the tenants.

The landlords claim that the tenants, specifically, L.R. had threatened the landlord, K.B. on March 13, 2017 with physical harm in that the tenants would "sic her dogs on her" the next time the landlords came to the rental property. The landlord, K.B. provided affirmed testimony that she was fearful of her safety due to the tenants' aggressive behaviour whenever they meet. The landlords stated that the tenants have attended her residence on multiple times without an invitation, loudly yelling and threatening her.

The tenants disputed the landlords claim stating that no threats have been made and that throughout their tenancy, they have experienced difficulty in communicating with the landlords, but that the landlords were not fearful for their safety.

The landlords called a witness, C.S. a neighbor to provide witness testimony of what had occurred on March 13, 2017. The witness, C.S. provided undisputed affirmed testimony that on March 13, 2017 she heard loud yelling and screaming outside of the landlord's home. The witness stated that this was unusual in her neighborhood, so she went out to see what was going on. The witness stated that she identified the tenant, L.R. who was yelling at her neighbor (the landlord, K.B.) and that she heard the tenant, L.R. threaten the landlord "...if you come to my home again, I will sic my dogs on you". The tenants' agent, questioned the witness on whether she could identify the tenant or the vehicle used. The witness described a person and the vehicle color. No further questions were asked of the witness.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord's property;
 - 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
 - has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

In this case, I find that the landlords have provided sufficient evidence of a threat made against the landlords by the tenants. Although the tenants disputed this claim, the landlords provided a witness who confirmed the landlords claim that a threat was made by the tenant, L.R. against the landlord, K.B on March 13, 2017 as claimed. I find on a balance of probabilities that I prefer the evidence of the landlords and their witness over that of the tenants. I find that the safety or physical well-being on an individual would constitute an unreasonable or unfair delay to wait for a notice for cause to take effect.

The landlords' application for an early end to the tenancy and to obtain an order of possession is granted. The order of possession is to be effective 2 days after being served upon the tenants.

Conclusion

The landlords are granted an order of possession to end the tenancy early.

This order must be served upon the tenants. Should the tenants fail to comply with the order, 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: September 01, 2017

Residential Tenancy Branch