



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 pursuant to the *Residential Tenancy Act* (the Act) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The corporate landlord was represented by its agent DZ (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that he served the tenant with the application for dispute resolution and evidence personally on December 5, 2017. The landlord submitted a video recording showing the tenant being personally handed the application package into evidence. Pursuant to sections 88 and 89 of the Act I find that the tenant was served with the landlord's application and evidence.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This tenancy began in 2016 and is currently on a month-to-month basis. A security deposit of \$275.00 was collected at the start of the tenancy and is still held by the landlord.

The tenant physically assaulted staff on November 15, 2017 by punching the staff member in the face. On November 16, 2017 the tenant threatened and hurled a chair at the staff member who was behind protective glass at the front desk. In addition the tenant has caused serious

damage to the rental unit, destroying fixtures, windows and the walls. The landlord submitted into evidence video recording of the incidents as well as photographs of the damage caused to the rental building. The tenant has continued to behave in an aggressive manner threatening staff and other residents of the rental building.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

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

it would be unreasonable, or unfair to the landlord, the tenant 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.

I find that the landlord has provided sufficient evidence to show that the tenant has seriously jeopardized the safety of other occupants of the building and the landlord by assaulting them. Assaulting, and punching the staff members is an inherently violent act which seriously jeopardizes the safety and wellbeing of others.

I find that the landlord has shown through their testimony and video evidence that the November 15, 2017 incident was not an aberration but a particularly egregious example of a continuing pattern of dangerous behaviour on the part of the tenant. I accept the landlord's evidence that the tenant continues to engage in aggressive behaviour and damages the building. I accept the landlord's evidence that the tenant interferes with the rights of the other occupants to quiet enjoyment and several other tenants have been forced to end their tenancy out of fear. I find that under the circumstances it would be unreasonable to the other occupants of the rental building to wait for a notice to end the tenancy to take effect.

Accordingly, I issue an Order of Possession to the landlord pursuant to section 56 of the *Act*.

As the landlord's application was successful the landlord is entitled to recover the filing fee for this application. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's \$275.00 security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: December 27, 2017

Residential Tenancy Branch