



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ET FFL

Introduction

This hearing was convened in response to an application by the landlord for an Order ending the tenancy as the tenant poses an immediate and severe risk, with an accompanying Order of Possession. The landlord further seeks to recover the filing fee.

The landlord attended the conference call hearing. The tenant did not. The landlord testified that the tenant still resides in the unit. The landlord testified they served the tenant with the Notice of Hearing package for this matter by placing it inside their outdoor mailbox adjacent to their front door. The landlord acknowledged receiving information in respect to serving the Notice of Hearing for this matter and that it had to be served in accordance with Section 89 of the Act. The landlord testified they served the Notice in the mailbox because it is the tenant's preference that all mail is provided to them in their mailbox and due to the sensitive nature of the tenancy relationship they did not want to aggravate the tenant.

Pursuant to **Section 71(2)(c)** of the Act I find that the tenant was sufficiently served with Notice of today's hearing for the purpose of the Act and the hearing proceeded on the facts of this matter.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Background and Evidence

The undisputed evidence is as follows. The landlord's evidence is that they and another family purchased the house of the rental unit in June 2017. They had asked the previous owner to give the tenant proper notice to vacate as they were intending to occupy the entire house upon possession. However, somehow the tenant still resided in the unit on the day of possession. The landlord's evidence is that on July 04, 2017 the landlord, with their witness, personally served the tenant with a 2 Month Notice to End for Landlord's Use having an adjusted effective date of September 30, 2017 and

given for the reason that the rental unit would be personally occupied by the landlord. the landlord provided a copy of the Notice into evidence. The tenant did not dispute the Notice and claimed they were looking in order to vacate and therefore the landlord waited while maintaining communication that they were pursuing other accommodations.

The landlord claims that at the end of September 2017 the tenant became difficult and started harassing all the landlord members with racial comments and telling the landlord that they would do whatever they wanted, including that they would set the house on fire, damage property, and the landlord's vehicles, as well as saying they will give away the children's swing set and trampoline, in the presence of the children to their upset. In addition the tenant stopped paying any rent after July 2017 and currently is months of rent in arrears. As well, the tenant has also been consuming/smoking marijuana in their rental unit and the strong odor is aggravating the asthma condition of the 92 year old member of the landlord's family making them ill. The landlord informed the tenant about the problem and not to smoke marijuana in the unit to which the tenant replied they would continue smoking marijuana and telling the landlord that the 92 year old senior should also smoke marijuana as it would help them.

The landlord claims that the tenant has said they can do as they want and are concerned for their safety as a result. The landlord further provided that the Abbotsford Police has been called several times because of the tenant's threats, last attending on October 08 and 09, 2017 for which they provided police incident numbers.

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

Section 56 of the *Act* allows a landlord to request an end to a tenancy and for an Order of Possession without providing a 1 Month Notice to End Tenancy for Cause, if the landlord has cause to end the tenancy; and, that 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 to become effective.

I have reflected upon the evidence submitted in this matter. On preponderance of the evidence I find the landlord has established the tenant, in the least, is displaying unsettling conduct and behaviour and disrupting the landlord. Moreover I am mindful the landlord has provided evidence that the tenant was given a 2 Month Notice to End which has not been disputed by the tenant, with an effective date of September 30,

2017. I find the landlord has provided sufficient evidence of conduct by the tenant which cannot but significantly disturb the landlord. I find the landlord has satisfied that the tenant has, pursuant to Section 56 of the Act,

- *significantly interfered with or unreasonably disturbed the landlord of the residential property, and*
- *seriously jeopardized the health or safety or lawful right of the landlord*

I also find that the circumstances in this matter establish that it would be unreasonable and unfair to the landlord and other occupants of the residential property to wait for a Notice to End tenancy issued under Section 47 to take effect.

As a result, I find that the tenancy will end. The landlord is given an Order of Possession effective in accordance with the Order. The landlord is further entitled to recover their filing fee.

I grant the landlord an Order of Possession effective two days after service of the Order on the tenant. This Order must be served on the tenant and if necessary may be filed in the Supreme Court and enforced as an Order of that Court.

I Order that the landlord may retain \$100.00 from the tenant's security deposit in satisfaction of the filing fee.

Conclusion

The landlord's application is granted.

This Decision is final and binding.

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 06, 2017

Residential Tenancy Branch