



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing convened as a result of a Landlord's Application for Dispute Resolution filed on December 21, 2017 wherein the Landlord sought an early end to tenancy pursuant to section 56 of the *Residential Tenancy Act* as well as recovery of the filing fee.

The hearing was scheduled by teleconference at 10:30 a.m. on January 15, 2018. Only the Landlord called into the hearing. As the Tenant did not attend service of the hearing package was considered.

The Landlord testified that he served the Tenant by posting the Application to the rental unit door on December 21, 2017. Section 90 of the *Residential Tenancy Act* provides that documents served in that way are deemed served three days later; accordingly I find the Tenant was duly served as of December 24, 2017.

Preliminary Matter

On the Landlord's Application for Dispute Resolution he erroneously spelled the Tenant's surname. Introduced in evidence was a copy of the Tenant's driver's license confirming the spelling of her name.

Additionally, the Landlord named the Tenant's boyfriend, E.R., as tenant on the Application for Dispute Resolution, despite the fact he is not on the tenancy agreement. The Landlord stated that E.R. signed the agreement as J.C., which is a false name.

Pursuant to section 64(3)(c) of the *Act*, and *Residential Tenancy Branch Rule 4.2*, I amend the Application to correctly spell the Tenant's name and to remove E.R. on the Application.

Issues to be Decided

1. Is the Landlord entitled to an early end to tenancy?

2. Should the Landlord be entitled to recovery of the filing fee?

Background and Evidence

The Landlord testified that the tenancy began November 1, 2017. Monthly rent is payable in the amount of \$1,150.00 and the Tenant paid a security deposit in the amount of \$525.00. The rental unit is a two bedroom basement suite in the Landlord's home; the Landlord, his wife, his one and a half year old daughter, and a seven year old boy live upstairs.

The Landlord stated that initially only the Tenant, S.C., moved into the rental unit and signed the tenancy agreement. The Landlord stated that shortly after the Tenant moved in, she allowed her boyfriend, whom she referred to as J.C., to move into the rental unit without the Landlord's knowledge or consent. The Landlord stated that he was concerned about J.C. and asked for identification, to which the Tenant responded that he had lost his wallet. On November 23, 2017, J.C. and the Tenant signed a new tenancy agreement (a copy of which was provided in evidence).

The Landlord stated that the Tenant's boyfriend, who he knew as J.C., was arrested on December 16, 2017 when 10-15 officers known as a "High Risk Target Team" attended the rental unit and arrested him. At this time, the Landlord was informed by the police that J.C.'s real name was E.R. and that he was on the "10 most wanted List", and that he was to be considered armed and dangerous and to avoid him as much as possible.

At that time the Landlord issued the 1 Month Notice to End Tenancy for Cause (the "Notice"). The reasons cited on the Notice are as follows:

- the Tenant has allowed an unreasonable number of occupants in a rental unit;
- the Tenant or a person permitted on the residential property by the Tenant has
 - 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 interest of the landlord or another occupant, or
 - put the landlord's property at significant risk;
- The Tenant has engaged in illegal activity that has caused or is likely to
 - 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
- the Tenant has caused extraordinary damage to a rental unit or residential property;

- the Tenant has not done required repairs of damage to the unit/site;
- Breach of a material term that was not corrected within a reasonable time after written notice to do so;
- Tenant knowingly gave false information to a prospective Tenant or purchaser viewing the rental unit/site or property/park;
- Non-compliance with an order under the legislation within 30 days after the tenant received the order or the date in the order;
- the Tenant has assigned or sublet the rental unit/site without the landlord's written consent;

The Landlord stated that after E.R. was taken away by the police, he personally served the Notice on the Tenant. The Notice informed the Tenant she had 10 days in which to apply for dispute resolution and dispute the Notice. The Landlord confirmed that the Tenant did not apply to dispute the Notice within the 10 days required by section 47 of the *Act*.

The Landlord stated that E.R. was released two days later and came back to the rental property on December 18, 2017.

On December 21, 2017 the Landlord made this application seeking an early end to tenancy pursuant to section 56(1) of the *Act*. The Landlord stated that the reason he is seeking an early end to tenancy is that he is fearful for his own safety as well as that of his family. The Landlord testified that after his arrest, E.R. threatened the Landlord twice.

In terms of the first threat, the Landlord testified that when E.R. returned to the rental unit on December 18, 2017, he asked the Landlord why he called the police and the media. When the Landlord told him that he did not call either, E.R. stated "you had better watch yourself now". The Landlord confirmed that he called the police to report this threat and they informed him to proceed with an application through the *Residential Tenancy Act*.

The details of the second threat are as follows. Introduced in evidence were copies of the residential tenancy agreement as well as a document titled "Extra Conditions Apply" signed November 23, 2017 which confirmed the rent was payable on the 30th of the preceding month. The Landlord stated that when the rent wasn't paid by January 1, 2018, he went to the rental unit door to remind the Tenant about payment. The Landlord testified that at this time, he heard very loud music and E.R. answered the door, not the Tenant. The Landlord stated he asked E.R. to turn down the music and asked to speak to the Tenant to which E.R. responded: "We are not going to pay the rent, do whatever you want; stop bothering us or I will kill you".

The Landlord stated that he called the police (who arrived within 10 minutes) spoke to E.R. and the Tenant. Again the police informed the Landlord to avoid E.R. as much as possible but to pursue matters through the residential tenancy branch.

The Landlord stated that since issuing the notice, the tenants have been banging doors, breaking windows, and bringing people over at all hours of the day. The Landlord further testified that he and his family are frightened of E.R. and fear for their safety.

The Landlord confirmed that as of the date of the hearing, the Tenant has not paid rent for January 2018.

Analysis

After consideration of the testimony and evidence before me and in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, I accept the undisputed version of events as provided by the Landlord.

Section 56 of the *Act* allows a tenancy to be ended early without waiting for the effective date of a one month Notice to End Tenancy if there is evidence that the tenant(s) have breached their obligations under the tenancy agreement or *Act* and it would be unreasonable or unfair to wait for the effective date of a one month Notice to End Tenancy.

I find that the Tenant has breached the tenancy agreement by providing a false name for her co-tenant, E.R. The Landlord has the right to know the legal names and identities of his tenants; and by providing a false name, the Tenant has seriously jeopardized the lawful right of the Landlord.

I also accept the Landlord's undisputed testimony that E.R. threatened him twice. The nature of those threats is very concerning and understandably upsetting for the Landlord and his family. I therefore also find that the Tenant, or persons permitted on the property by the Tenant, has/have seriously jeopardized the safety of the Landlord.

While the corrected date of the 1 Month Notice to End Tenancy is January 16, 2018, it is the case that had the Landlord waited for that date to pass and made his application for dispute resolution later than December 21, 2017, he may not have obtained a hearing date for some time.

I accept the Landlord's submissions that the Tenant, and her boyfriend, E.R.'s behaviour have escalated to the extent that they are banging on the walls, breaking windows and E.R. has threatened to kill the Landlord. I accept the Landlord's evidence that his family are frightened of the Tenant and her guests.

In all the circumstances, I find it would be unreasonable for the Landlord to wait until the corrected effective date of the 1 Month Notice to pursue an Order of Possession. **I therefore grant the Landlords' application to end this tenancy early.**

Conclusion

The Landlord is granted an Order of Possession effective **immediately after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court 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 15, 2018

Residential Tenancy Branch