



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution ("application"), seeking an order to end the tenancy early, and receive an order of possession and to recover the cost of the filing fee.

The landlord and his spouse attended the hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing ("Notice of Hearing"), application and documentary evidence were considered. The landlord provided affirmed testimony that the Notice of Hearing, application and evidence was served on tenants by posting to their door within three days of March 1, 2018 and that the tenants continue to occupy the rental unit. This information was confirmed by the spouse of the landlord who affirmed that she was present when the tenants were served. Based on the above and without any evidence to prove to the contrary, I accept that the tenant were sufficiently served under the *Act* with the Notice of Hearing, application and documentary evidence within three days of March 1, 2018.

As the tenants did not attend the hearing although sufficiently served, I consider this matter to be undisputed by the tenants.

Preliminary and Procedural Matters

The landlord provided his email address and the tenants' email address in their application. The landlord confirmed their understanding that the decision would be emailed to them and that any applicable orders would be emailed also.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession under section 56 of the *Act*?
- Is the landlord entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The landlord testified that on February 21, 2018 the tenants verbally threatened the landlord by saying “you fucking asshole I am going to punch your eyes out and kick you in the balls”. The landlord is 72 years old and his spouse is 68 years old. The landlord stated that after being threatened he was very concerned for his safety and that the tenants swore at the landlords for about 15 minutes which they felt was also threatening. The landlords contacted the local police department and obtained a police file number which has been included on the cover page of this decision for ease of reference.

The landlord and his spouse also testified that that later on February 21, 2018 they received a text from the tenants which was submitted in evidence which supports the threats described by the tenants above. A copy of the text was submitted in evidence. In addition, the landlord testified that on February 25, 2018 the tenants saw the landlords go into their vehicle and use their van to block the landlord’s vehicle on the public road and that the tenants were shaking their fist and yelling at the landlord through their window. The landlords testified that the tenants then followed the landlords for approximately five kilometres which made the landlords fear for their safety again.

The landlord testified that the local police advised them that the tenants are known to them and not to attend the rental property without a police escort as a result. The landlord is seeking an immediately order of possession under section 56 of the *Act*.

Analysis

Based on the landlord’s undisputed documentary evidence and the undisputed testimony provided by the landlord and his spouse during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenants have threatened the health and safety of the landlord. I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a notice to end tenancy under section 47 of the *Act*. I find that the act of threatening the landlord with violence to be unreasonable and unacceptable and that the landlord has a valid reason to fear for their safety as a result. I also find that there is no room for such threats against a landlord by a tenant in any tenancy.

Therefore, pursuant to section 56 of the *Act*, I grant the landlord an **immediate** order of possession for the rental unit which must be served on the tenants. I find the tenancy ended as of the date of this hearing based on the evidence before me, April 6, 2018.

As the landlord's application was successful, I grant the landlord **\$100.00** for the recovery of the cost of the filing fee pursuant to section 72 of the *Act*. I authorize the landlord to retain \$100.00 from the tenants' \$900.00 security deposit in full satisfaction of the recovery of the cost of the filing fee under the *Act*. I find the tenants' security deposit is now \$800.00 as a result of my decision.

Conclusion

The landlord's application is successful.

The tenancy ended this date, April 6, 2018 pursuant to section 56 of the *Act*. The landlord has been granted an order of possession effective immediately which must be served on the tenants. Should the landlord require enforcement of the order of possession, and once the tenants have been served, the landlord may enforce the order of possession through the Supreme Court of British Columbia.

I have granted the landlords \$100.00 for the recovery of the cost of the filing fee pursuant to section 72 of the *Act*. I have also authorized the landlords to retain \$100.00 from the tenants' \$900.00 security deposit in full satisfaction of the recovery of the cost of the filing fee under the *Act*. The tenants' security deposit is now \$800.00 effective immediately.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*. Pursuant to section 77 of the *Act*, a decision or an order is final and binding, except as otherwise provided in the *Act*.

Dated: April 6, 2018

Residential Tenancy Branch