



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NAM WAH TONG HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

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 10 minutes. The corporate landlord was represented by its agent WL (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 dated May 31, 2018 and the evidence by registered mail sent on June 1, 2018. The landlord submitted a Canada Post tracking number into evidence. Pursuant to sections 88, 89 and 90 of the *Act* I find that the tenant was deemed served with the landlord's application and evidence on June 6, 2018, five days after mailing.

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 presented undisputed evidence regarding the following facts. This tenancy began in March, 2010. The rental unit is one of three suites in a detached home. The

current monthly rent is \$832.00. A security deposit of \$375.00 is currently held by the landlord.

The witness testified that on the evening of May 26, 2018 the tenant barged into the witness' unit and swung a large metal instrument at the tenant. The tenant reports that they were hit and suffered cuts to the neck as well as bruising to the face. The witness said that the weapon was wrested from the tenant's grasp and other guests who were present intervened. The tenant retreated from the scene, uttering threats at the witness.

The witness said that he filed a police report and provided a police file number. The witness said that the tenant has continued to act in an aggressive manner and utter verbal threats against the witness and his property. The witness said that there is concern about personal safety.

The landlord submitted into written evidence a statement from the witness as well as a letter from the occupant of the third rental unit in the building. The tenant's behaviour is characterized as aggressive and threatening.

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. Kicking in the door of a rental unit, swinging around a large instrument and attacking a person is an inherently violent act which seriously jeopardizes the safety and wellbeing of others.

I accept the evidence that the May 26, 2018 incident was not an aberration but a particularly egregious example of a continuing pattern of threatening, aggressive behaviour on the part of the tenant. I accept the landlord's evidence that the tenant continues to engage in aggressive behaviour and utters threats against the other occupants. I accept the landlord's evidence that the tenant interferes with the rights of the other occupants to quiet enjoyment. 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 \$375.00 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.

The security deposit for this tenancy is reduced by \$100.00 from \$375.00 to \$275.00.

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: June 29, 2018

Residential Tenancy Branch