



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlords' application pursuant to section 56 of the *Residential Tenancy Act* (the *Act*) for an early end to this tenancy and an Order of Possession.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:41 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. Landlord MJ (the landlord) attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord posted a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on the tenant's door on September 14, 2018. I find that the tenant was deemed served with this Notice in accordance with sections 88 and 90 of the *Act* on September 17, 2018, the third day after its posting. The landlord testified that they posted the dispute resolution hearing package and a copy of their written evidence on the tenant's door on November 18, 2018. I find that the tenant was deemed served with this package in accordance with sections 88, 89 and 90 of the *Act* on November 21, 2018.

Issues(s) to be Decided

Are the landlords entitled to end this tenancy early and obtain an Order of Possession?

Background and Evidence

This tenancy for a rental unit in the landlords' home where they reside commenced on December 1, 2014. Monthly rent is set at \$750.00, payable in advance on the first of each month. The landlord gave undisputed sworn testimony that the tenant has not paid any rent for December 2018.

The landlords' 1 Month Notice issued on September 14, 2018, sought an end to this tenancy by October 14, 2018, for the following reasons:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;..*

Tenant has caused extraordinary damage to the unit/site or property/park.

The corrected effective date for this Notice is October 31, 2018.

The landlords entered into written evidence examples of the tenant's interference with and unreasonable disturbance of the landlords' family, young international students staying with the landlords' family, other tenants in the building and some of the landlords' neighbours. These examples included two incidents where the tenant appeared at the landlords' naked. The police have been called a number of times regarding the tenant's actions and behaviours, and the tenant has been escorted by the police and/or ambulance personnel to a health care facility for assessment. The landlords' written evidence also included a claim that the tenant was carrying knives around with him on occasion, which also disturbed the landlords and their young family.

The landlord testified that the tenant is in the process of vacating the rental unit, having moved some of their belongings from the landlords' house the day before this hearing. Although the tenant is no longer sleeping in this rental unit, some of his belongings remain in the rental unit. For this reason, the landlord requested the issuance of an Order of Possession to ensure that this tenancy ends and the landlords gain regain possession of this rental suite.

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. 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.

In this case, the landlord has issued a 1 Month Notice for Cause pursuant to section 47 of the *Act*, which has not been disputed by the tenant.

Based on the undisputed written evidence and sworn testimony of the landlord's representatives, I find that sufficient evidence has been provided to warrant an end to this tenancy for the reasons outlined in the first portion of section 56, as outlined above. I find that the tenant has significantly interfered with or unreasonably disturbed the landlords, the landlords' family and others who dwell on this property.

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate that "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” for cause to take effect. On this point, I find that the landlords' undisputed written evidence and sworn testimony meets the test to establish that it would be unreasonable or unfair to the landlords and those living at this property to wait for a notice to end tenancy to take effect. I allow the landlords' application for an early end to this tenancy and an Order of Possession.

I also find that the 1 Month Notice issued to the tenant became effective as of October 31, 2018, which also entitles the landlords to obtain an Order of Possession for this rental unit on the basis of the 1 Month Notice.

Conclusion

I allow the landlords' application to obtain an early end to this tenancy. The landlord is provided with a formal copy of an Order of Possession. Should the tenant 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 07, 2018

Residential Tenancy Branch