



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on January 9, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession; and
- an order granting recovery of the filing fee.

The Landlord and the Tenants attended the hearing at the appointed date and time, and provided affirmed testimony.

The Landlord testified the Application package was served on the Tenants by registered mail on January 11, 2019, and that tracking information confirmed receipt by the Tenants on January 17, 2019. The Tenants acknowledged receipt on that date. I find the Tenants received the Application package on January 17, 2019. The Tenants did not submit documentary evidence in response to the Application.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

A copy of the month-to-month tenancy agreement between the parties confirmed the tenancy began on August 1, 2018. The parties confirmed that rent in the amount of \$1,500.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$750.00 and a pet damage deposit of \$250.00, which the Landlord holds. The parties agreed that S.A. has moved out of the rental property.

The Landlord wishes to end the tenancy. He testified that several weeks after serving the Tenants with a 2 Month Notice to End Tenancy for Landlord's Use of Property, dated October 31, 2018, the tone of correspondence from the Tenants escalated. Specifically, the Landlord testified J.K. made threats against the Landlord and workers on the rental property, which included:

- Sending a hand-written letter to the manager of the chicken farm on the property, suggesting a murder occurred in the rental property, that ghosts were present, and that their children may be at risk.
- Sending text messages to the Landlord which:
 - stated he was charged with being a "Contract Killer",
 - suggested he has connections to the drug trade,
 - stated that "All Talking Is Long Over", and suggested that the Landlord contact the RCMP to enquire about the Tenants' background,
 - stated "I will be contacting my NCC Agents to Fill them in on what you Did",
 - stated that the Landlord "Might Want to Hire the WORST Gang Members Money Can Buy...You Just Screwed The Worst Person In the World...Lip Service Is Over..."
 - stated that "You Think I am Crazy You Haven't Seen Crazy that's me being Nice and Calm You haven't seen My Other Side Yet Sleep Well Enjoy Your Day What Goes Around Comes Around"

Copies of the correspondence were submitted into evidence by the Landlord.

In reply, S.A. testified that J.K. used to own the property, which was recently sold to the Landlord. S.A. also stated that the sale caused stress to J.K. because of his sister's involvement and due to a lien on the property.

To his credit, J.K. acknowledged that he sent the correspondence referred to by the Landlord. He testified that he was experiencing stress and felt backed into a corner because of the notice to end tenancy issued by the Landlord, health issues involving his heart and liver, and an alleged threat by the Landlord to destroy the Tenants' belongings if they did not vacate the rental property in accordance with the notice to end tenancy.

Analysis

Based on the affirmed documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*.

The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied...

- (a) *The tenant or a person permitted on the residential property by the tenant had done any of the following:*
 - (i) *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
 - (ii) *seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
 - (iii) *put the landlords property at significant risk;*
 - (iv) *engaged in illegal activity that*
 - (A) *has caused or is likely to cause damage to the landlord's property,*

- (B) *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*
- (C) *has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- (v) *caused extraordinary damage to the residential property, and*

(b) 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 under section 47 [landlord's notice: cause] to take effect.

[Reproduced as written.]

In this case, the Landlord's testimony indicated that the J.K. made direct and indirect threats to the Landlord and workers on the rental property. This was supported by documentary evidence which included a hand-written letter and text messages, for which J.K. accepted responsibility. As a result, I find no difficulty in concluding that the Tenants have significantly interfered with or unreasonably disturbed the Landlord, and have seriously jeopardized the health or safety or a lawful right or interest of the Landlord. Any stress of health issues experienced by the Tenants or their family members do not justify the kind of direct and indirect threats made in the correspondence submitted by the Landlord. Further, I find it would be unreasonable or unfair to the Landlord to wait for a notice to end the tenancy under section 47 of the *Act*.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenants. In addition, having been successful, I find the Landlord is entitled to recover the filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in 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: February 1, 2019

Residential Tenancy Branch