



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution ("application"), seeking remedy under the *Residential Tenancy Act* ("Act") to end the tenancy early due to immediate and severe risk to the landlord, and receive an order of possession and to recover the cost of the filing fee.

The landlord attended the hearing and gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. As the tenant 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 tenant by registered mail on January 16, 2019 and was addressed to the rental unit address. A copy of the registered mail tracking number was also submitted in evidence and has been included on the cover page of this decision for ease of reference. The landlords testified that the tenant continues to occupy the rental unit. The landlord stated that the mailbox is outside and that the tenant can check their mail at any time. According to the Canada Post online registered mail website information, the tenant did not pick up the registered mail package. Section 90 of the *Act* states that documents served by registered mail are deemed served five days after they are mailed. Based on the above, I find the tenant was deemed served with the Notice of Hearing, application and documentary evidence on January 21, 2019.

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

Preliminary and Procedural Matter

The landlord confirmed their email address during the hearing. The landlord confirmed their understanding that the decision would be emailed to them and that any applicable orders would be emailed also. The decision will be sent by regular mail to the tenant as an email address for the tenant was not known by the landlord during the hearing.

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 not submitted in evidence. The landlord testified that on December 7, 2018 the tenant verbally threatened her and acted in an intimidating manner with wide eyes and clenched teeth. The landlord provided a photo of the tenant which fully supports the tenant with wide eyes and clenched teeth. The landlord stated that the tenant approached her and was about one foot (12 inches) away from the landlord and said in a threatening tone while pointing to her the following:

You better watch what I can do to you!

The landlord stated that she was pregnant at the time and has since miscarried due to the stress the tenant has caused her, and the fact that she is very allergic to dogs and the tenant has allowed his guests to bring in a dog into the rental unit, contrary to the tenancy agreement according to the tenant. The tenant stated that she called the police to report the threat to her safety. The police file number has been included on the cover page of this decision for ease of reference.

The landlord is seeking an immediate 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 during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant has 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 and coming within one foot of the landlord, which I find to be an invasion of the landlord's personal space, is unreasonable. 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 order of possession effective **two (2) days** after service on the tenant.

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*. The landlord is granted a monetary order under section 67 of the *Act* in the amount of \$100.00.

Conclusion

The landlord's application is successful.

The landlord has been granted an order of possession effective two (2) days after service on the tenant and applies to all occupants of the rental unit. The landlord must serve the tenant with the order of possession, and if the tenant refuses to vacate, the landlord may enforce the order of possession through the Supreme Court of British Columbia.

The landlord is granted \$100.00 for the recovery of the cost of the filing fee pursuant to section 72 of the *Act*. The landlord is granted a monetary order under section 67 of the *Act* in the amount of \$100.00.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *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: February 7, 2019

Residential Tenancy Branch