



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

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;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided affirmed testimony. The tenant, D.B. attended the hearing via conference call and provided affirmed testimony. The tenant, C.W. did not attend and was unrepresented. The landlord stated that both tenants were served with the notice of hearing package in person on February 5, 2019. The tenant, D.B. stated that the tenant, C.W. was in hospital, but that both parties did receive the notice of hearing package as claimed by the landlord. The tenant, D.B. stated that she was prepared to go ahead with the hearing. Both parties confirmed that although evidence was submitted to the Residential Tenancy Branch, neither party provided this evidence to the other party. Neither party raised any service issues. As such, I accept the undisputed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act. I also find that as neither party provided the submitted documentary evidence to the other, that all of the submitted documentary evidence is excluded from consideration in this hearing.

Issue(s) to be Decided

Is the landlord entitled to an early end to the tenancy and an order of possession?
Is the landlord entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord seeks an urgent application about a tenant who poses an immediate and severe risk to the rental property, other occupants or the landlord and stated that

The landlord seeks an early end to the tenancy and to obtain an order of possession. The landlord provided written details stating: "Police involved for disturbance. She took the blocks of my trailer and let it go, it is now hanging over the retaining wall over the neighbors walkway. Broke the fence and leaves the gate open so the dogs get loose. Homeless husband sleeping in driveway and was told he was not welcome and continues to do so and is causing a disturbance to the neighbors, unhooked my internet. Is very abusive to daughter downstairs. I am a new widow and live alone and am concerned for my safety."

The tenant disputed the landlord's claims.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord's property;
 - 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
 - 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.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the

requirement that the landlord show it would be “unreasonable or unfair” to wait for a cause notice to take effect.

Section 63 of the Residential Tenancy Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the two parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to mutually end the tenancy on March 31, 2019 by which time the tenants will have vacated the rental unit.

The landlords agreed to withdraw the application for an early end to the tenancy and to obtain an order of possession.

Both parties agreed that the above noted particulars comprised a full and final settlement of all aspects of the dispute arising from this application for dispute resolution.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis and that the parties understood the nature of this full and final settlement of this matter.

In order to implement the above settlement reached between the parties, I issue an Order of Possession to be used by the landlord if the tenants fail to vacate the rental premises in accordance with their agreement by 1:00 pm on March 31, 2019. The landlord is provided with this order in the above terms and the tenant(s) must be served with this Order in the event that the tenants do not vacate the premises by the time and date set out in their agreement. Should the tenants fail to comply with this Order, the 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: March 04, 2019

Residential Tenancy Branch