



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution, made on February 3, 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.

S.D.B. attended the hearing on behalf of the Landlords and provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlords, S.D.B. testified the Application package was served on the Tenant by registered mail on February 6, 2019. A Canada Post registered mail receipt was submitted in support. Pursuant to section 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. I find the Tenant is deemed to have received the Application package on February 11, 2019. The Tenant did not submit documentary evidence in response to the Application.

S.D.B. was 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. Are the Landlords entitled to an order of possession?
2. Are the Landlords entitled to recover the filing fee?

Background and Evidence

On behalf of the Landlords, S.D.B. confirmed the tenancy began on January 1, 2017. Rent in the amount of \$700.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$350.00, which the Landlords hold.

The Landlords wish to end the tenancy. S.D.B. testified that her husband, R.B., was assaulted by the Tenant on January 23, 2019. S.D.B. testified that the Landlords posted a 24-hour notice to inspect the rental unit and furnace. The Tenant became agitated at having received the notice. R.B. started recording the Tenant with his phone. According to S.D.B., the Tenant pushed the phone away and scratched R.B. in the process. Photographs of the Tenant and R.B.'s arm were submitted in support.

In addition, S.D.B. testified that the Tenant continued to behave aggressively the day after the assault, yelling and swearing at the Landlords with their young daughter present.

The Tenant did not attend the hearing to dispute the Landlords' evidence.

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Analysis

Based on the unchallenged documentary evidence and affirmed 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 unchallenged testimony of S.D.J., which I accept, indicated that the Tenant assaulted R.B. on January 23, 2019, and continued to behave aggressively toward the Landlords the following day. As a result, I find the Tenant has *significantly interfered with or unreasonably disturbed the Landlord, and has seriously jeopardized the health or safety or a lawful right or interest of the Landlord*. Further, I find it would be unreasonable or unfair to the Landlords to wait for a notice to end the tenancy under section 47 of the Act.

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

Conclusion

The Landlords are 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: March 8, 2019

Residential Tenancy Branch