



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution, made on May 28, 2019 (the "Application"). The Landlords applied for and order of possession pursuant to section 56 of the *Residential Tenancy Act* (the "*Act*").

The Landlords were represented at the hearing by J.P., their agent. The Tenant attended the hearing and was assisted by J.A., an advocate. J.P., the Tenant, and J.A. provided a solemn affirmation at the beginning of the hearing.

On behalf of the Landlords, J.P. advised the Application package was served on the Tenant by taping it to the door of the Tenant's rental unit on June 4, 2019. A Proof of Service document submitted into evidence confirms service in this manner was witnessed by A.D. Although not served in accordance with section 89 of the *Act*, the Tenant and J.A. confirmed receipt of the Application package the day after it was served. Given the gravity of the Landlords' allegation and the Tenant's acknowledgement of receipt, I find the Application package was sufficiently served for the purposes of the *Act*, pursuant to section 71 of the *Act*. The Tenant 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.

Issue

Are the Landlords entitled to an order of possession?

Background and Evidence

The tenancy agreement between the parties has not been reduced to writing. However, the parties agreed the tenancy began in or about 2007. The Tenant testified rent is due in the amount of \$600.00 per month. The Tenant testified further that he paid a security deposit of \$200.00, which is held by the Landlords. J.P. did not dispute the Tenant's evidence in this regard.

The Landlords wish to end the tenancy after receiving a threatening telephone voice message from the Tenant on May 23, 2019. The recorded voice message was submitted into evidence. In it, the Tenant complained about the Landlords entering his rental unit. The Tenant referred to the Landlords as "you fucking bastard", and stated "I have enough powers to shoot you on sight". In a written statement provided on the Application, the Landlords advised that the matter was reported to the local RCMP detachment and was assigned a file number.

In reply, the Tenant does not dispute that he left the threatening message. J.A. advised that the Tenant was intoxicated when the message was left. On his behalf, J.A. stated the Tenant is very embarrassed and is prepared to make changes to his drinking habits so the tenancy can continue. Further, J.A. stated the Tenant does not own or have access to a firearm. In addition, J.A. advised the Tenant and the Landlords have maintained their friendship despite this incident. In response, J.P. confirmed the Landlords want the Tenant to obtain help but that the tenancy needs to end.

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 parties agreed, and I find, that the Tenant left a voice message threatening to shoot the Landlords on sight. Threats of this nature are clearly unacceptable and are not excused by the Tenant's issues with drinking, which were acknowledged by J.A. As a result, I find the Tenant has significantly interfered with or unreasonably disturbed the Landlords, 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: June 18, 2019

Residential Tenancy Branch