



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, for 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 Proceeding ("Notice of Hearing"), application, documentary and video evidence were considered. The landlord provided affirmed testimony that the Notice of Hearing, application and evidence were served on tenant by personal service between 7:00 p.m. and 8:00 p.m. on June 26, 2019, which was witnessed by his wife, HK. The landlord clarified that the tenant was served the video evidence on a USB flash drive that was provided to the tenant. Based on the above, and without any evidence to support to the contrary, I find the tenant was served with the Notice of Hearing, application and documentary evidence on June 26, 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

The landlord testified that the tenancy was based on a verbal agreement with the tenant and began in September 2018. The landlord stated that monthly rent is \$900.00 per month and is due on the first day of each month. The landlord testified that the tenant has not paid rent for July 2019.

The landlord referred to the home outdoor video security footage submitted in evidence and confirmed that he was the person on the ground being assaulted by the tenant on the video. In the video, it is clear that the person on the ground, the landlord, was being kicked, punched and assaulted by having several items thrown at him by the tenant. In addition, at one point in the video, the tenant kicks the landlord while he is lying prone on the ground in the groin. The landlord appears to be attempting to defend himself on the ground; however, the tenant prevents the landlord from getting up from the ground.

The landlord testified that he has called the local RCMP and provided a police file number, which has been included on the cover page of this decision for ease of reference. The landlord confirmed that he is seeking criminal assault charges against the tenant related to this incident and has been off work since the assault.

Analysis

Based on the landlord's undisputed video 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 assaulted 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 assaulting a landlord has no place in any tenancy and is completely unreasonable. 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.

I find that pursuant to section 56 of the *Act*, that the tenancy has ended as of the date of this hearing, July 5, 2019.

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. The landlord may also wish to retain the full \$100.00 amount from the tenant's security deposit instead of enforcing the monetary order.

I caution the tenant that assaulting a landlord is not acceptable during any tenancy.

Conclusion

The landlord's application is fully successful. The tenancy ended this date, July 5, 2019.

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: July 5, 2019

Residential Tenancy Branch