



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SCOTT AVENUE APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

ET and FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied to end the tenancy early, for an Order of Possession, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that on August 08, 2019 he posted the Dispute Resolution Package and the 11 pages of evidence the Landlord submitted to the Residential Tenancy Branch on August 07, 2019 on the door of the Tenant's rental unit. On the basis of the undisputed testimony I find that these documents were served to the Tenant in accordance with a standing order issued by the Director of the Residential Tenancy Branch regarding preferred methods of service for the parties to an expedited hearing, pursuant to section 71 of the *Residential Tenancy Act (Act)*.

The Agent for the Landlord stated that on August 09, 2019 he posted an amended first page of the Application for Dispute Resolution, in which the spelling of the Tenant's middle name was corrected. On the basis of the undisputed testimony I find that this document was served to the Tenant in accordance with a standing order issued by the Director of the Residential Tenancy Branch regarding preferred methods of service for the parties to an expedited hearing, pursuant to section 71 of the *Act*.

This hearing commenced at the scheduled start time of 9:30 a.m. By the time the teleconference was terminated at 9:49 a.m., the Tenant had not appeared. As the aforementioned documents have been properly served to the Tenant, the hearing proceeded in the absence of the Tenant and the evidence was accepted as evidence for these proceedings.

The Agent for the Landlord was given the opportunity to present relevant oral evidence, and to make relevant submissions. He affirmed that he would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided

Is the Landlord is entitled to end this tenancy early; to an Order of Possession on the basis that the tenancy is ending early, pursuant to section 56(1) of the *Residential Tenancy Act (Act)*?

Background and Evidence

The Landlord submitted documentary evidence that outlines the various reasons the Landlord wishes to end this tenancy early, some of which were discussed at the hearing.

The Agent for the Landlord stated that:

- this tenancy began on May 01, 2019;
- on July 17, 2019 police attended and spoke with him and the Tenant regarding water being poured from the Tenant's balcony;
- after the police left the Tenant attempted to push him down the stairs, but did not make contact with him because he stepped backwards;
- after attempting to push him down the stairs the Tenant attempted to hit him, but did not make contact;
- later in the day on July 17, 2019 the Tenant threatened to harm him and his family;
- at approximately 1:30 a.m. on July 18, 2019 he woke up to find the Tenant outside his door with a baseball bat, at which time the Tenant made threats to harm him;
- shortly thereafter the Tenant went to the door of unit 113, with the bat, and threatened to kick in her door if she did not stop smoking;
- on July 26, 2019 the Tenant threatened to harm him and his family;
- on July 26, 2019 water from the Tenant's blocked sink flooded 4 suites in the residential complex, which activated the fire alarm;
- when the fire department arrived they would not enter the unit until the police arrived;
- when the police arrived the Tenant provided them with access to the unit, after he spent approximately 10 minutes removing items he had used to barricade the front door;
- on several occasions in July the Tenant poured water over his balcony, which fell onto lower balconies; and
- he thinks the Tenant vacated the rental unit a few days ago but he wants an Order of Possession to prevent him from returning to the unit.

Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and the landlord may apply for an Order of Possession for the rental unit. Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that 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
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

After considering all of the undisputed evidence presented by the Agent for the Landlord I am satisfied that the actions of the Tenant has, when considered collectively, has significantly interfered with or unreasonably disturbed another occupant or the Landlord of the residential property. I find that the verbal and physical threats he has made to the Agent for the Landlord, particularly when he was armed with a bat, are not acceptable and would disturb a reasonable person. I find that repeatedly pouring water from his balcony onto lower balconies would disturb the occupants of the lower units.

After considering all of the undisputed evidence presented by the Agent for the Landlord I am satisfied that the actions of the Tenant has residential property by the tenant has put the Landlord's property at significant risk. I find that the flood that occurred on July 26, 2019 was the Tenant's fault; that it placed the Landlord's property at significant risk of being damaged; and that the potential risk was exacerbated by the Tenant failing to provide immediate access to emergency personnel.

Given the potential for violence and further damage to the residential complex, I find that it would be unreasonable to wait for a notice to end the tenancy under section 47 to take effect. I therefore find that this tenancy should end early and I grant the Landlord an Order of

Possession, effective immediately. I find it reasonable to order the Tenant to vacate immediately, as the Agent for the Landlord believes the rental unit may already be vacated and he simply wishes to ensure that it is not re-occupied.

I find that the Application for Dispute Resolution has merit and that the Landlord is entitled to recover the fee paid to file this Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective immediately. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord has established a monetary claim, in the amount of \$100.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution and I grant the Landlord a monetary Order in that amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced by that Court.

Dated: August 20, 2019

Residential Tenancy Branch