



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On August 9, 2019, the Landlords made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlords attended the hearing; however, the Tenant did not make an appearance. All in attendance provided a solemn affirmation.

R.D. advised that the Tenant was served the Notice of Hearing and evidence package by posting this on the door on August 9, 2019. A signed proof of service document was submitted as evidence of service. Based on the undisputed, solemnly affirmed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was deemed to have received the Notice of Hearing package and Landlords’ evidence three days after it was posted.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Landlords entitled to an early end to this tenancy and an Order of Possession?
- Are the Landlords entitled to recover the filing fee for this application from the Tenant?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

R.D. advised that the tenancy started on February 1, 2011 and rent was currently established at \$525.00 per month, due on the first of each month. A security deposit of \$225.00 was also paid. A signed tenancy agreement was submitted as documentary evidence.

She submitted that the Tenant demonstrated concerning behaviour on August 6, 2019 that rapidly escalated throughout that evening. She advised that earlier that day, the Tenant showed up to pay the rent, but he was naked. As the day progressed, he exhibited increasingly hostile behaviour, he hurled obscenities at the Landlords, he made inappropriate sexually charged remarks, he threatened to physically assault and kill Landlord J.W.'s husband, and he threatened to physically assault a tenant of the property.

As the day progressed, the Tenant's behaviour became so alarming that they called the police. Once police attended the scene, the Landlords could hear the Tenant shouting and screaming. To manage the situation, the police needed to call for backup and four other police officers arrived on scene. It took hours to arrest the Tenant and he was eventually taken away in an ambulance under the *Mental Health Act*. She stated that the police could not advise of when the Tenant would be released but they suggested that they should have been called to respond to this situation earlier.

J.W. advised that given the Tenant's aggressive threats, actions, and close proximity, they are worried about his behaviour and how safe the Landlords and the other tenants will be. She stated that the police determined that the reason for the Tenant's behaviour was because he had not taken his medication, but this was the first time that they were aware he was on any medication. They are concerned of what might happen in the future if he missed subsequent medication dosages.

They provided, as documentary evidence, five signed letters of parties that corroborated the unusual behaviour and threats issued by the Tenant, as well as the police interaction with the Tenant on August 6, 2019. They also submitted pictures of damaged property that the Tenant left behind in the yard.

Analysis

Section 56 of the *Act* establishes the grounds for the Landlords to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the Tenant has done any of the following:

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

it would be unreasonable, or unfair to the landlord, the tenant 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.

Based on the undisputed evidence and affirmed testimony before me, I am satisfied that the Tenant had been arrested for his conduct on August 6, 2019. While I am not satisfied that these behaviours were intentional, I do find that they were aggressive and malicious and would fall into the categories of: significantly interfering with or unreasonably disturbing another occupant or the Landlord, seriously jeopardizing the health or safety or a lawful right or interest of the Landlord, engaging 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, and engaging in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.

The Landlords must also demonstrate that “it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to

end the tenancy under section 47 for cause” to take effect. Based on the undisputed evidence and testimony of the Tenant’s troublesome behavior, questionable and inappropriate commentary, and uttering of threats, I accept that there is likely a genuine concern for the ongoing safety of the other residents of the property when he returns.

Under these circumstances described, I find that it would be unreasonable and unfair to the Landlords to wait for a One Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the Landlords have provided sufficient evidence to warrant ending this tenancy early. As such, I find that the Landlords are entitled to an Order of Possession.

As the Landlords were successful in this application, I find that the Landlords are entitled to recover the \$100.00 filing fee paid for this application. Under the offsetting provisions of section 72 of the *Act*, I allow the Landlords to retain \$100.00 from the security deposit in complete satisfaction of this debt.

Conclusion

I grant an Order of Possession to the Landlords effective **two days after service of this Order** on the Tenant. Should the Tenant fail to comply with this Order, this 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: August 20, 2019

Residential Tenancy Branch