



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THACKER & WICKS HORSE
BOARDING and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agent (the "landlord"). The tenant appeared and represented himself with assistance.

The tenant confirmed receipt of the landlord's application and materials. The tenant said they had ample evidence but were unable to submit or serve them. Based on the evidence I find that the tenant was served with the landlord's application and evidence in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?
Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The parties agree on the following facts. This periodic tenancy began in April, 2019. A security deposit of \$1,000.00 was paid at the start of the tenancy and is still held by the landlord. There was a violent altercation between the tenant and one of the landlords, RT on September 1, 2019.

The landlord submits that the tenant has engaged in a variety of hostile and unacceptable behaviour towards both the landlords and other occupants of the rental property prior to the incident of September 1, 2019. The landlord submitted into evidence witness statements and copies of correspondence between the parties as well as photographs of the injuries suffered by the landlord RT.

The tenant explains that the incident of September 1, 2019 was instigated by the landlord and prior to the violence the landlord had entered the tenant's rental unit without authorization. The tenant alluded to video and audio evidence but said they had not served or submitted any of their materials.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

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.

I find that the landlord has provided sufficient evidence to show that the tenant has seriously jeopardized the safety of other occupants of the building and the landlord by assaulting them. Assaulting, and punching the landlord is an inherently violent act which seriously jeopardizes the safety and wellbeing of others.

I find that the landlord has shown through their testimony and evidence that the September 1, 2019 incident was not an aberration but a particularly egregious example of a continuing pattern of aggressive behaviour on the part of the tenant. I accept the landlord's evidence, through the witness statements submitted, that the tenant interferes with the rights of the other occupants to quiet enjoyment. I find that under the circumstances it would be unreasonable to the other occupants of the rental building to wait for a notice to end the tenancy to take effect.

I do not find the submission of the tenant that the violent altercation was instigated by the landlord to be supported in the evidence or believable. I find the tenant's testimony and belief that their violent actions to be justified and a reasonable response to the landlord's conduct to be without merit. I find that escalating a conflict into a violent confrontation demonstrates that the tenant has engaged in behaviour that seriously jeopardizes the safety and wellbeing of others. I find the tenant's belief that such behaviour is justified to demonstrate that this is not likely to be an isolated incident and it would be unreasonable for the other occupants to allow the tenancy to continue until a notice to end tenancy takes effect.

Accordingly, I issue an Order of Possession to the landlord pursuant to section 56 of the *Act*.

As the landlord's application was successful the landlord is entitled to recover the filing fee for this application. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's \$1,000.00 security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The security deposit for this tenancy is reduced by \$100.00 to \$900.00.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: September 24, 2019

Residential Tenancy Branch