



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an early end to tenancy and obtain an order of possession.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on August 27, 2019. A Canada post tracking number was provided as evidence of service.

The Canada post tracking number is noted on the covering page of this decision. The Canada post history shows that on August 28, 2019, the tenant was left a notice card indicating where and when to pick up the item. On September 3, 2019, the tenant was left a final notice.

Section 90 of the Act determines that a document served in this manner is deemed to have been served on September 1, 2019, five days later. I find that the tenant has been duly served in accordance with the Act. **Refusal or neglect** to pick up the package does not override the deemed services provision of the Act.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began in 2017. Rent in the amount of \$750.00 was payable on the first of each month.

The landlord testified that the tenant and their guests have been causing a lot of problems. The landlord stated that the tenant is leaving a large amount of garbage on the premises, there are piles of garbage left in the common areas, and that the rental unit is extremely dirty and cluttered.

The landlord testified that they served the tenant with a notice of inspection and when they attended on June 5, 2019, they were denied access. The landlord stated that there was also a loud noise, which they believed, was a gunshot or the use of a bear banger to scare them off. The landlord stated that they immediately left the premises, as they were fearful for their safety.

The landlord testified that their witness called 911 from the upper unit, in which that renter was extremely scared and has given their notice to end the tenancy because of the issues that have been ongoing, such as noise, drugs, and safety.

The landlord testified for the second time the tenant has strung fishing line across the walkway, which contains fishing hooks, and the new potential renter got caught in the fishing line and had to be untangled. The landlord stated they got a hook stuck in their arm.

The landlord testified that they police have been contacted on multiple occasions, regarding noise, bothering other occupants, ignoring notice to enter and denying access, garbage issues, and the issue of a possible gun. The landlord testified that the tenant or their guests are leaving needles in the common areas and with all the garbage they are worried that someone will step on a needle. The landlord stated that the tenant has now changed the locks on the rental unit and they cannot complete the monthly inspections.

The landlord stated they cannot continue the tenancy as they feel their safety is at risk, and the tenant is significantly interfering with their rights.

The witness Cst M.W testified that they support the tenancy ending. M.W. stated that have had many complaints regarding the premises and it is becoming a nuisance to the

department. M.W. stated that they have attended the premises and there is a big concern with garbage as it attracts the bears, and the rental unit is very dirty. M.W. stated that the tenant is passive aggressive and many of the landlord's complaints are valid. M.W. stated that when they attended the rental unit on June 5, 2019, they do not believe a gun was used, as there was no evidence of the smell of gun powder.

The witness CV testified that they were present when the landlord was attempting to inspect the rental unit. CV stated it was very quiet; however, when the landlord attempted to enter the premise there was a loud bang. CV stated they were very scared and ran upstairs to the other renters unit and called 911.

Filed in evidence are various witness statements.

Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or
 - iii. Put the landlord's 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 rental unit or residential property;
- b) In addition, 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.

I am satisfied, based on the undisputed testimony and evidence provided by the landlord, Cst M.W and CV that the tenant has significantly interfered with the landlord by denying access to the rental unit and then using a device, that sounded like a gunshot to scare the landlord, CV and the upper occupant.

I am also satisfied, based on the undisputed testimony of the landlord that the tenant has continued to engage in behaviour that put other occupants and the landlord at risk. On two occasions, the most recent was the day before the hearing, strung fishing line with hooks across the common walkway causing a potential new renter to be tangled in the line and the landlord was hooked with a fishing hook. I find it would be unreasonable and 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.

Based on the above finding, I find the landlord is entitled to an order of possession.

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord is granted an order of possession.

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 11, 2019

Residential Tenancy Branch