



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROSSANO PROPERTY MANAGEMENT LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This expedited hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for early termination of a tenancy pursuant to section 56.

The landlord testified the landlord served the tenant with the Notice of Hearing and Application by registered mail sent December 16, 2019 to the tenant's residential address which is deemed received under section 90 five days later, that is on December 21, 2019. The landlord provided the tracking number from Canada Post for the registered mail referenced on the first page. The landlord also submitted a witnessed Proof of Service form of Notice of Expedited Hearing in RTB form # 9. The tenant acknowledged service. No issues of service were raised. I find the landlord served the tenant with the documents on the deemed date pursuant to section 90,

Issue(s) to be Decided

Is the landlord entitled to:

- An order for early termination of a tenancy pursuant to section 56.

Background and Evidence

The parties agreed the month-to-month tenancy started in December 2018 for monthly rent of \$1,445.00 payable on the first of the month. A security deposit of \$722.50 was provided to the landlord which the landlord holds.

The landlord has applied for an early end of tenancy and an order of possession.

The landlord submitted substantial evidence, a summary of which follows:

1. The tenant has been a problem to the landlord since the beginning of the tenancy with sounds of arguing and fighting coming from the unit;
2. The police attended many times to the unit;
3. Matters came to a head on October 13, 2019 when a guest of the tenant was stabbed by another guest during the birthday party for the tenant's 1-year old child;
4. "About 20 police officers came" to the unit and the landlord stated drugs and alcohol were involved;
5. The landlord's agent S.D., who lived in the building, cared for the child for several hours; the child was then apprehended by social services and has not been returned to the tenant;
6. The tenant has not paid rent on time and rent is outstanding for December and January 2020;
7. The landlord issued the One Month Notice on October 29, 2019 which the landlord posted to the tenant's door, as acknowledged by the tenant, thereby effecting service on November 2, 2019;
8. The effective date of the Notice was stated as December 1, 2019, corrected to December 31, 2019;
9. The grounds for the notice are:
 1. The tenant or person permitted on the residential property by the tenant has
 - a. `seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
 2. The tenant or a person permitted on the property by the tenant has engaged in illegal activity that has, or is likely to:
 - a. Adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant
10. The Notice stated the tenant had the right to dispute the Notice in ten days and the tenant has not applied to dispute the Notice;
11. The tenant continued to occupy the unit and refused to move out;
12. On December 18, 2019, the tenant applied for an order for emergency repairs

under a file number referenced on the first page, the hearing scheduled for February 27, 2020 at 11:00 AM.

The landlord stated in the Application as follows:

Violence, threats, abuse, and fighting has occurred throughout the tenancy in what would be classified as a senior friendly home. A few long-term and good tenants have left the building as a result of her. The building caretaker has also received threats, which make it an unsafe environment for both tenants and caretaker.

In support of the landlord's application, the landlord filed many documents including a letter from the occupants of another unit providing their notice to vacate because of the October 13, 2020 incident, a letter from another occupant of the building stating plans to vacate because of the tenant, and a police incident number.

The landlord's agent S.D. lives in the unit and testified to frequent, increasing threats of physical harm from guests/occupants of the unit who have told her to "watch her back". She testified she feels increasingly afraid and is terrified to go to the unit.

The tenant acknowledged that the stabbing incident occurred on October 13, 2019, her child was apprehended and has not been returned to her. However, she denied that her guests or boyfriend, who occupy the unit with her, have otherwise threatened anyone, or contribute to loud sounds of arguing or fighting. The tenant denied that neighbours objected to the noise from the unit or have vacated although the tenant acknowledged receipt of the above-mentioned letters.

The tenant requested that the landlord's application be dismissed.

Analysis

While I have turned my mind to the documentary evidence and the testimony of the parties, not all details of the submissions and arguments from the 1-hour hearing are reproduced here. The relevant and important aspects of the claims and my findings are set out below.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus

to prove their case is on the person making the claim. In this case, the onus is on the landlord to establish on a balance of probabilities that they are entitled to an order for an early end of the tenancy.

To end a tenancy early, the landlord must prove that the tenant has done something contrary to section 56 **and** that it would be unreasonable or unfair to the landlord or other occupants to wait for a notice to end tenancy for cause ("One Month Notice"). Section 56 of the Act provides as follows [emphasis added]:

Application for order ending tenancy early

56 (1) *A landlord may make an application for dispute resolution to request an order*

- a. *ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [landlord's notice: cause], and*
- b. *granting the landlord an order of possession in respect of the rental unit.*

(2) *The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,*

- a. *the tenant or a person permitted on the residential property by the tenant has done any of the following:*

(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;

(iii) put the landlord's property at significant risk;

(iv) engaged in illegal activity that

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 residential property, and

(b) 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 [landlord's

notice: cause] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

The landlord relied on section 56(2)(a)(i), that is, that *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.*

I have given significant weight to the oral and written testimony of S.D. and the documentary evidence submitted which supported her testimony.

S.D. gave candid, forthright, credible evidence establishing that the tenant increasingly engaged in activities that caused sounds of yelling and fighting which disturbed neighbours. S.D. was believable in describing the verbal threats she has endured by occupants/guests of the unit who she believed may harm her. I believe that S.D. feels threatened and terrified of what the tenant and her guests/occupants will do next and that she has valid reasons for her concerns. I particularly found S.D.'s evidence believable and convincing that the apartment building was now unsafe to her because of the tenant's actions along with the actions of her guests/occupants.

There is no doubt that the shocking stabbing incident occurred on October 13, 2019 as acknowledged by the tenant. I believe the landlord's testimony that the presence of many police officers worried the occupants of the entire building and caused at least one vacancy.

I did not find the tenant believable, but instead characterize her testimony as self-serving and implausible. I find the tenant minimized or denied her responsibility for the events complained of by the other tenants and the landlord to a point that was beyond understanding.

I do not believe the tenant's blanket denial of all wrongdoing. The tenant's insistence that the fighting, arguing and threats stopped after that is disingenuous and unbelievable. I give little weight to the tenant's testimony and find it lacks credibility.

On a balance of probabilities and for the reasons stated, I find that the landlord's application satisfies all requirements under section 56(2)(b) of the *Act*. I find that the landlord provided sufficient evidence that it would be unreasonable wait for a hearing for

the One Month Notice, as the testimony and evidence presented by the landlord demonstrated a significant risk of physical violence to S.D. who lives in the building. I find it would be unreasonable and unfair to the occupants of the building and the landlord to wait for a hearing.

Accordingly, I allow the landlord's application for an early end to this tenancy and an order of possession will be issued effective on two days notice.

Conclusion

The landlord will be given a formal order of possession which must be served on the tenant. If the tenant does not vacate the rental unit within two days of service of this order, the landlord may enforce this order in 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: January 06, 2020

Residential Tenancy Branch