



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRUNSWICK MANOR APARTMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

ET and FFL

Introduction

This hearing was scheduled 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 January 02, 2020 the Dispute Resolution Package and evidence the Landlord submitted to the Residential Tenancy Branch were posted on the Tenant's door. The Tenant acknowledged receipt of this evidence and it was accepted as evidence for 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)*; and to recover the filing fee pursuant to section 72(1) of the *Act*.

Background and Evidence

The Tenant stated that this tenancy began on July 15, 2019. The Agent for the Landlord stated that he does not recall when the tenancy began.

In support of this application to end the tenancy early the Agent for the Landlord stated that:

- He went to residential complex at approximately 10:00 p.m. on December 22, 2019 in response to a report of a disturbance;

- The occupant of unit #210 told him that the Tenant forced open the door of her rental unit and that he “threw her around”;
- The door jamb of unit #210 was damaged and would not close properly;
- He was at unit #210 approximately one week prior to this incident, at which time the door to that unit functioned properly;
- The occupant of unit #210 was supposed to meet him today to give evidence at these proceedings, but she did not meet with him
- The occupant of unit #210 did not provide a written statement;
- He spoke with the Tenant after this incident occurred and was advised there had been no physical contact between him and unit #210 during this incident; and
- Other occupants of the residential complex now fear the Tenant.

In regard to the aforementioned incident the Tenant stated that:

- He was television in unit #210 with the occupant of that unit, who was his friend;
- They argued and she asked him to leave her unit;
- After leaving he decided that he should retrieve his spare key for his rental unit, which he had previously given to the occupant;
- She would not open the door, so he applied force to the door with his shoulder;
- He did not use a large amount of force;
- Both he and the occupant were surprised when it opened;
- The door was not working properly, which is why it opened with limited force;
- He did not have any physical contact with the occupant after he forcefully opened the door; and
- He left after the occupant returned his spare key.

The Landlord submitted a written document from a neighbor of unit #210. In the document the author declares, in part, that they heard a loud bang just before the occupant of unit #210 told them the Tenant had forced his way into the rental unit. In the document the author declares that the occupant “frantically” requested assistance.

The Landlord submitted a written document from the occupant of unit #210, although it does not relate to this incident. In this document the occupant reports that the Tenant has been bothering her.

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 a 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.

On the basis of the undisputed evidence, I find that the Tenant forced open the door of unit #210 in December of 2019. Although the Tenant contends there was not an excessive amount of force used to open the door, I find this testimony is not credible. I find this testimony is not credible because:

- The neighbors heard a large bang, which causes me to conclude an excessive amount of force was used;
- The door jamb was damaged, which causes me to conclude an excessive amount of force was used; and
- The Agent for the Landlord stated that the week prior to the incident the door was in a good state of repair, which refutes the Tenant's testimony the door was not working properly.

I find that the Tenant interfered with or unreasonably disturbed the occupant of unit #210 when he forced open the door of her rental unit in December of 2019.

Although I have no direct evidence from the occupant of unit #210 in regard to the incident in December of 2019, I find that most people would be unreasonably disturbed if a third party, regardless of their personal relationship, forced open the door of their home.

Although I have no direct evidence from the occupant of unit #210 in regard to the incident in December of 2019, I find it reasonable to conclude that she was significantly disturbed by the incident as the Tenant forced her way into her home after she made it clear she did not want him in her home.

Although I have no direct evidence from the occupant of unit #210 in regard to the incident in December of 2019, I find it reasonable to conclude that she was significantly disturbed by the incident as her neighbors report that she “frantically” requested assistance.

In adjudicating this matter, I have placed no weight on the Agent for the Landlord’s testimony that the occupant of unit #210 was assaulted during this incident. I have placed no weight on this testimony as there is no evidence to corroborate this testimony or to refute the Tenant’s testimony that there was no physical contact.

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.

Given the level of violence associated to this disturbance, I find it is not reasonable for the landlord or other occupants of the residential complex to wait until February 28, 2020, or later, for a notice to end the tenancy under section 47 to take effect. I therefore grant the Landlord an Order of Possession, which is effective on January 31, 2020.

I find that the Landlord’s Application for Dispute Resolution has merit and that the Landlord is entitled to collect the fee for filing this Application for Dispute Resolution.

Conclusion

Based on these findings I grant the Landlord an Order of Possession that is effective on January 31, 2020. 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 fee paid for filing 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: January 16, 2020

Residential Tenancy Branch