



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an early termination of the tenancy and an Order of Possession, as the Tenant poses an immediate and severe risk. The Landlord also applied to recover the \$100.00 cost of their Application filing fee.

The Landlord and his brother, S.G., appeared at the teleconference hearing and gave affirmed testimony. No one attended on behalf of the Tenant. The teleconference phone line remained open for over 15 minutes and was monitored throughout this time. The only persons to call into the hearing were the Landlord and his brother, who indicated that they were ready to proceed. I confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, were the Landlord and his brother.

As the Tenant did not attend the hearing, I considered service of the Notice of Dispute Resolution Hearing. Section 59 of the Act states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified and provided a Proof of Service indicating that he served the Tenant with the Notice of Hearing documents in person on December 23, 2019. The Landlord said he had a police officer in attendance when he served the Tenant with these documents. I find that the Tenant was served with the Notice of Hearing documents in accordance with the Act.

I explained the hearing process to the Landlord and gave him an opportunity to ask questions about the hearing process. During the hearing the Landlord was given the opportunity to provide his evidence orally and to respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Landlord confirmed his email address at the outset of the hearing and confirmed his understanding that the Decision would be emailed to the Landlord and mailed to the Tenant, and that any Orders would be sent to the appropriate Party in this manner.

Issue(s) to be Decided

- Is the Landlord entitled to an Order of Possession based on the early termination of the tenancy in accordance with section 56 of the Act?
- Is the Landlord entitled to recovery of his \$100.00 Application filing fee?

Background and Evidence

The Landlord submitted a tenancy agreement signed by the Parties. The Landlord confirmed that the periodic tenancy began on February 1, 2016, with a monthly rent of \$1,275.00, due on the 30th day of each month. The Landlord confirmed that the Tenant paid the Landlord a security deposit of \$637.50, and no pet damage deposit.

In the hearing, the Landlord said the reason he seeks an early termination of the tenancy and an order of possession is because he and his family are scared for their safety, given the Tenant's verbal and physical behaviour. The Landlord said: "We're not that kind of people; we're scared."

The Landlord also said they are fearful that the Tenant will damage the house, as he leaves all of the windows open, turns the heat on full, and even turns the stove on for more heat. The Landlord said: "It is a new house. His turning on the heat and stove could cause a fire."

In a written submission, the Landlord said:

Whenever I tried to talk to him, he got visibly upset. His angry behaviour and aggression are a huge concern for me and I fear the safety of my family. He threatened my wife that he has a gun and he will shoot us. I had filed a complaint about that with [the local police] on April 23, 2019 [file number provided] where no actions were taken. The officer asked me if anyone has seen the gun, and he also said to call 911, when you see the gun, as at this point, they can't do anything. I was appalled by the officer's response. On September 27th this year, he followed my wife into the house to snatch our rental receipt book from her hand. I didn't call [the police] because of my previous experience with the department. My entire family is afraid of him and we are unable to enjoy our home as we feel threatened all the time. He recently told me that he left the house after turning on all stove burners, oven and 3 heaters. This type of reckless behaviour is putting my family's life in jeopardy. My wife is missing work because of depression and these issues have deteriorated my father's health and he had a nervous breakdown recently.

The Landlord emphasized that the Tenant said that "...he has a gun and anyone coming to the door, he's going to shoot in the head. We've seen the news – truly, he can shoot all of us as a family, because we live together. We keep our door locked all the time. We stay together. It's a tough situation we're in now."

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

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 Landlord.

Section 56 of the Act establishes grounds on which a landlord may apply for dispute resolution to request an early termination of a tenancy and an order of possession. In order to grant such an order, I need to be satisfied that the Tenants have done any of the following:

1. significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. put the landlord's property at significant risk;
4. 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;
5. has engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
6. 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 tenancy under section 47 to take effect.

In this case, I find that the Landlord has established on a balance of probabilities that the Tenant has done the first five actions in the above noted list with the threats of violence, angry, aggressive behaviour, leaving the heat, oven and elements on while he is out of the rental unit, and leaving the heat on with the windows all open. I, therefore, find that the Landlord has met the burden of proof in this matter. I further find that it would be unreasonable and unfair for the Landlord or other occupants of the residential property to wait for a one month notice to end tenancy to take effect.

Accordingly, and pursuant to section 56(1) of the Act, I order that **the tenancy is ended immediately as of January 8, 2020, the date of the Order of Possession**. I grant the Landlord an Order of Possession, which must be served on the Tenant along with a complete

copy of this Decision, and is effective immediately, as of service of the Order of Possession on or after January 8, 2020.

Further, I grant the Landlord recovery of the \$100.00 Application filing fee, and I authorize the Landlord to deduct this from the Tenant's security deposit.

Conclusion

The Landlord is successful in his Application, having established on a balance of probabilities that the Tenant's behaviour warrants an early termination of the tenancy and an Order of Possession, pursuant to section 56 of the Act. Accordingly, I order that the tenancy is ended immediately, as of January 8, 2020, the date of the Order of Possession.

I grant the Landlord an Order of Possession, which must be served on the Tenant, and which is effective immediately as of the service of the Order of Possession on or after January 8, 2020. The Landlords may send a proof of service of the Order of Possession to the RTB for future reference.

Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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 08, 2020

Residential Tenancy Branch