



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding TIMELESS MANAGEMENT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

ET FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for an order to end the tenancy early and receive an order of possession, and to recover the cost of the filing fee.

An agent for the landlord JC (agent) and a witness for the landlord SL (witness) attended the hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. The hearing process was explained and an opportunity to ask questions was provided to the agent.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated February 7, 2020 (Notice of Hearing), the application and documentary evidence were considered. The agent provided affirmed testimony that three packages, one for each tenant, containing the Notice of Hearing, application and documentary evidence were served on an adult who was residing with the tenants, E on February 7, 2020 at approximately 2:00 p.m. The agent testified that attending with the agent were two Vancouver police officers and that one of the police officers advised E that the packages related to a residential tenancy dispute. Based on the undisputed testimony of the agent, I find the tenants were served as of February 7, 2020. As the tenants did not attend the hearing, I consider this matter to be unopposed.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matter

The agent confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. As the agent did not have an email address for the tenants, the decision will be sent by regular mail to the tenants.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession?
- Is the landlord entitled to the recovery of the cost of the filing fee?

Background and Evidence

The agent stated that the tenancy began on December 1, 2019. Monthly rent is \$2,142.00 per month and the tenants paid a security deposit of \$1,071.00, which the landlord continues to hold.

The agent testified that on February 6, 2020, there was flooding water coming out of the tenants' rental unit, and when the agent attended the rental unit, they witnessed the toilet was broken by the tenants, causing a flood of water. The agent stated that while they were working to clean up water, the spouse of the agent, SL (witness) entered the rental unit and it was at this time that the tenants locked SL inside the rental unit and a short time afterwards, the agent testified that they heard SL scream and as a result, the agent banged on the tenants' door and demanded that they open the door.

The agent stated that when the door was eventually opened, SL advised the agent to follow them up to their own unit so that SL could tell the agent something urgent. The agent stated that one tenant KF followed them back to the unit of the agent and glared aggressively at SL before they closed their door. The agent stated that SL advised the agent that KF grabbed her backside, which caused SL to scream. The agent stated that they immediately reported the sexual assault to the police department, and that KF was arrested on February 6, 2020.

SL was called as a witness and was affirmed. SL testified that when the one of the tenants closed their door, the lights were shut off and KF "grabbed my backside and then I screamed." SL also testified that they are very scared of KF and that KF was

arrested by the police as the agent called the police on February 6, 2020. The agent and SL are unsure if KF remains in jail or was released on bail.

Analysis

Based on the undisputed testimony provided during the hearing, and on a balance of probabilities, I find and I am satisfied that KF has engaged in illegal activity that has adversely the quiet enjoyment, security, safety and physical well-being of SL, who resides in the building.

Section 56 of the Act applies and states:

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**

(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 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.

[Emphasis added]

I am also satisfied that it would be unreasonable and unfair to the agent and their spouse, SL to wait for a notice to end tenancy under section 47 of the Act. I find the actions of KF, constitute sexual assault on SL, who is the spouse of the agent. Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after on the tenants. I find the tenancy ended the date of this hearing, February 20, 2020 pursuant to section 62(3) of the Act.

As the landlord's application is successful, I grant the landlord **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act. I authorize the landlord to retain \$100.00 from the tenants' \$1,071.00 security deposit pursuant to sections 38 and 67 of the Act in full satisfaction of the recovery of the cost the filing fee. I find the tenants' security deposit is now \$971.00 effective immediately pursuant to section 62(3) of the Act.

Conclusion

The landlord's application is successful.

The tenancy ended this date, February 20, 2020.

The landlord is granted an order of possession effective two (2) days after service on the tenants.

This decision will be emailed to the landlord and sent by regular mail to the tenants. The order of possession will be emailed to the landlord for service on the tenants. This order may be enforced through the Supreme Court of British Columbia.

The landlord is authorized to retain \$100.00 from the tenants' security deposit for the filing fee. The tenants' security deposit is now \$971.00 as a result and as indicated above.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*. Pursuant to section 77 of the *Act*, a decision or an order is final and binding, except as otherwise provided in the *Act*.

Dated: February 20, 2020

Residential Tenancy Branch