



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened in response to an application by the Landlord for an order ending the tenancy early and for an order of possession pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence (the “Materials”) by registered mail on February 4, 2020 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Materials on February 9, 2020. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy of a basement unit in a house started under written agreement on May 16, 2018. The Landlord and its family lives in the upper unit. Prior to February 1, 2020 the Tenant had not paid rent for two months. On or about February 1, 2020 the Landlord’s wife heard banging on their entrance door but when the wife went to the door nobody was there. The wife then heard noise at the connecting door between the Tenant’s unit and the Landlord’s residence. This door is secured from entry to the Landlord’s

residence. The wife went to the door and saw a knife being used to open the connecting door. The wife opened the door and saw the Tenant holding a knife. The Tenant attempted to hide the knife and then offered a sum of money to the wife while exposing his genitals to the wife. The Landlord's wife became terrified, went back to the upper unit and called police. The Landlord was not at home at the time of the incident. The police arrested the Tenant. The Landlord was informed that the Tenant was charged with a criminal offence and had been released from arrest on the condition that the Tenant stay away from the property. The Tenant has not returned to the unit however its belongings are still in the unit. The Landlord also recalls an earlier incident where the Tenant had been trying to get the Landlord's four-year-old daughter to come to the Tenant. The Landlord is greatly concerned about the safety of his family, in particular while the Landlord is away from their residence at work. The Landlord asks for an early end of the tenancy and an immediate order of possession.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier than it would end if the landlord issued a 1 Month Notice to End Tenancy for Cause and obtain an Order of Possession in certain circumstances. It is not necessary for the landlord to issue a 1 Month Notice; however, the landlord must show that:

- (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.

Given the undisputed evidence that the Tenant had a knife and exposed himself to the Landlord's wife, I find that the Landlord has substantiated that Tenant acted in a criminal manner towards the Landlord's family causing extreme fright and that under the circumstances it would be unreasonable or unfair to the Landlord to wait for a one month notice to take effect. Accordingly, I find that the tenancy must end early and that the Landlord is entitled to an Order of Possession.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

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.

Dated: March 03, 2020

Residential Tenancy Branch