



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1163660 BC LTD.
and [tenant name suppressed to protect privacy]

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 pursuant to section 56 of the Act, and to recover the cost of their filing fee pursuant to section 72 of the Act.

The Tenant, and two agents, S.P. and S.M, for the corporate Landlord ("Agents"), appeared at the teleconference hearing and gave affirmed testimony. One witness, R.K., a police officer with the RCMP ("Witness"), also attended and gave affirmed testimony.

I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Parties were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. 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.

The Agent, S.M., said he served the Tenant with the Application, Notice of Hearing and documentary evidence in registered mail packages sent to the rental unit. The Agent provided Canada Post tracking numbers, as evidence of service. The Tenant did not submit any evidence to the RTB or to the Landlord. I am satisfied that the Tenant was served with the Application package pursuant to the Act.

Preliminary and Procedural Matters

The Agent provided his email address at the outset of the hearing. The Tenant could not

remember his email address, but he agreed to have a police officer provide a copy of the Decision to him. As such, he did not have to reveal his forwarding address in the hearing, in case inappropriate persons were listening; the teleconference system does not allow me to identify all callers who dial in beyond their telephone numbers. The Parties confirmed their understanding that the Decision would be provided to the Parties in this manner, and that any Orders would be sent to the appropriate Party.

At the start of the hearing, there were five other callers identified by their telephone numbers in the teleconference. When someone identified himself as the Tenant, the Witness, a police officer who was on another line, stated that he did not believe this person was actually the Tenant. Rather, he said believed, and other members with him stated that they recognized the voice as, B.P., a person who was “in charge of the house”.

Further, the individual identifying himself as the Tenant was unable to provide the Tenant’s date of birth accurately. The Witness advised me of B.P.’s telephone number, so I could determine which caller he was. In addition to the Witness’s testimony, the inability of this person to provide the Tenant’s birth date led me to believe that he was impersonating the Tenant. I, therefore, disconnected the caller identifying himself as the Tenant.

The Witness said that another member had called the Tenant to ask why he was not on the teleconference call. The member was advised by the Tenant that his cell phone needed charging, but that he would call in shortly. The Tenant did call in approximately 15 minutes late, and we then proceeded with the hearing.

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 the \$100.00 Application filing fee?

Background and Evidence

The Landlord submitted a tenancy agreement signed by the Parties. The Agents confirmed the following details of the tenancy. The fixed term tenancy began on August 15, 2018, ran until July 15, 2019, and then operated on a month-to-month basis. The Parties agreed that the tenancy had a monthly rent of \$2,800.00, due on the first day of

each month. The Agents confirmed that the Tenant paid the Landlord a security deposit of \$1,400.00, and no pet damage deposit.

In the hearing, the Agents said they seek an early termination of the tenancy and an order of possession. In the Notice of Hearing, the Landlord stated:

The landlord recently became aware of serious criminal activity at the dispute premises as follows: Overdose Death at Property. Overdose death linked to drugs sold from the property. 2 Drug trafficking warrants executed. Emergency Response Team regarding shots fired and hostage taking. Known sexual predator fleeing the premises and breaking and entering a neighbors house. More details in attached RCMP letter to landlord dated 24 Feb 2020.

[reproduced as written]

The Landlord submitted a letter received from the RCMP about the Tenant and occupants in the rental unit. The letter dated February 24, 2020 includes the following:

This is to advise you of the concern for continued criminal activity at your residence, [rental unit address]. These concerns have been ongoing since January 2019, where it has been confirmed that drugs are being sold at this location. Since receiving the initial call for concern, 55 police files have been generated with reports of suspicious activity, suspected drug activity and criminal activity. This activity has continued into 2020, with the most recent call for service being February 19th 2020. . .

The Witness explained further in the hearing, as follows:

This property is well known to police. Over the past year we've had over 60 calls for service response. Two CDSA drug warrants were issued. Drug trafficking is happening at the residence. An emergency response team had to attend, as there was a hostage taking at this residence. There are schools nearby, and the public is at risk. It is well known that these homes are operated by gangs.

Aside from that, the biggest topper to this is how this affects public safety, as we have a constant flow of vulnerable street persons attending the residence to purchase drugs. In one search, we seized a digital recorder; I observed a camera set up on one room of the home as a drug use room. Eight to ten people in that room were sharing drugs and had mouth to mouth contact. Given the state of emergency with the Covid virus, [the City] has compromised, vulnerable,

homeless people attending the residence. We are trying to shut down mass gatherings to reduce the Covid virus spreading.

Deaths occurred at that house. A 45-year-old male died of a drug overdose, according to the Coroner. There was also a 16-year-old girl whose death we linked to drugs at this house.

The homeless community doesn't have the opportunity to wash their hands. There are serious concerns of this home offering the homeless population drugs.

In response, the Tenant said: "That's good what we're going though right now. Whatever he said is the right thing. The things going through there are in my name and are bad. Please stop this."

The Witness said:

We are always concerned about the risk to the public. This Covid virus is spreading, and being such a dangerous virus, we are concerned about the spread in the community. We are educating large gatherings, warning people to stop doing this sort of thing. We need this place shut down immediately. They are contributing to the spread of this virus. We've made contact with [B.P.], who is in charge of the house, and we asked them to shut it down, because of Covid concerns, and they said they would. But we confirmed last night that they had not.

Last night our members were observing the residential property, and in 50 minutes, they had eight people in and out in short stays for drug transactions. We asked our members to stop stopping people, because of the Covid danger to members resulting from the contact. It is an active drug house in there, and it needs to be shut it down immediately.

The Tenant did not have anything else to say, other than: "I think they're doing a great job."

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 order of possession. In order to grant such an order, I need to be satisfied that the Tenant has 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 am satisfied that the Landlord has established on a balance of probabilities that the Tenant and occupants have done numbers two through four of the actions noted above. I further find that because of the dangerous, criminal activity of the occupants, including the potential spread of Covid-19, that it would be unreasonable and unfair for the Landlord to wait for a one month notice to end tenancy to take effect before granting an order of possession.

Accordingly, and pursuant to subsections 56(2)(a)(ii)(iii) and (iv)(C), and section 56(2)(b) of the Act, I find that the Landlord is entitled to an order of possession. I also make this finding pursuant to section 4(1)(a) of an Order of the Minister of Public Safety and Solicitor General, *Emergency Program Act: Residential Tenancy (COVID-19)* Ministerial Order: MO89/2020.

I, therefore, order that the tenancy is ended two days from the date on which the Order

of Possession is served on the Tenant. I grant the Landlord an Order of Possession, which must be served on the Tenant and is effective two days after the date of service.

Further, given his successful Application, I grant the Landlord recovery of the \$100.00 Application filing fee pursuant to section 72 of the Act, and I authorize the Landlord to deduct \$100.00 once from the Tenant's security deposit.

Conclusion

The Landlord is successful in this Application. I find that the Landlord has established on a balance of probabilities that due to illegal and dangerous activity at the rental unit, to allow the tenancy to continue would put the community, the Landlord's property, and the Landlord's lawful right or interest in serious jeopardy. Further, I award the Landlord recovery of the \$100.00 Application filing fee, pursuant to section 72 of the Act. The Landlord is authorized to deduct \$100.00 from the Tenant's security deposit once, in satisfaction of this award.

Accordingly, and pursuant to section 56 of the Act, I grant the Landlord an Order of Possession, which must be served on the Tenant, and which is effective two days from the date of service on the Tenant.

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: April 02, 2020

Residential Tenancy Branch