



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT Limited Partnership
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's expedited Application for Dispute Resolution, made on April 8, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk; and
- a monetary order granting the recovery of the filing fee.

The hearing was scheduled for 9:30 A.M. on April 17, 2020 as a teleconference hearing. The Landlord's Agent appeared at the scheduled date and time of the hearing. No one appeared for the Tenants. The conference call line remained open and was monitored for 10 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord's Agent and I were the only persons who had called into this teleconference.

The Landlord testified the Application and documentary evidence package was served to the Tenants by registered mail on April 9, 2020. The Landlord provided a copy of the registered mail receipts in support. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenants are deemed to have been served with the Application and documentary evidence on April 14, 2020. The Tenants did not submit documentary evidence in response to the Application.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord's Agent testified that the tenancy began on February 1, 2019. Currently, the Tenants pay rent in the amount of \$1,533.87.00 which is due to the Landlord on the first day of each month. The Landlord's Agent stated that the Tenants paid a security deposit in the amount of \$373.75 which the Landlord continues to hold. The Landlord's Agent stated that the Tenants continue to occupy the rental unit.

The Landlord's Agent stated that she is seeking to end the tenancy early as the Tenants have;

“significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health and safety or lawful right of another occupant or the Landlord.”

“engaged in illegal activity that has or is likely to: adversely affect the quiet enjoyment, security, safety, or physical wellbeing of another occupant, and jeopardized a lawful right or interest of another occupant or the Landlord.”

The Landlord's Agent stated that the Tenants have been uttering threats of harm to a neighbouring occupant in the building. The Landlord's Agent stated that these threats have increased to the point that the Police were phoned on March 20, 2020. The Landlord's Agent stated that the Tenants were charged with uttering threats and that there is currently a Court ordered no contact condition in place. The Landlord provided a copy of the Undertaking in support.

The Landlord's Agent stated that the Tenants have not been complying with the Court ordered protective conditions and that the Tenants continue to have unwanted contact with their neighbouring occupant. The Landlord's Agent stated that the neighbouring occupant is fearful for their safety and continue to contact Police regularly regarding the Tenants' behaviour and threats of harm. As such, the Landlord's Agent is seeking to end the Tenancy early. If successful, the Landlord is seeking the return of the filing fee.

Analysis

Based on the unchallenged documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

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...

- (a) The tenant or a person permitted on the residential property by the tenant had 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 landlords 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.***

The causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the Tenants must be extreme and require immediate action.

In this case, the Landlord's unchallenged evidence and testimony indicated that the Tenants have uttered threats of harm to a neighbouring occupant in the building. The Landlord's Agent stated that the threats have escalated to a point where on March 20, 2020 the Police were contacted and charges were filed against the Tenants. I accept that the Tenants are Court ordered to have no contact with the neighbouring occupant, however, the Landlord's Agent stated that the Tenants have not complied with that condition of their Undertaking.

I find that the Landlord and their Agent have provided sufficient evidence to demonstrate that the Tenants pose an immediate and severe risk to another occupant in the building which has generated Police contact and charges. Furthermore, despite being under Court ordered conditions, the Tenants continue to have unwanted contact with the neighbouring occupant. As such, I find it would be unreasonable or unfair to the Landlord to wait for a notice to end the tenancy under section 47 of the *Act*.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenants. In addition, having been successful, I find the Landlords are entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenants. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

This decision 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 17, 2020

Residential Tenancy Branch