



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pacifica Housing Advisory Association
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which ran for approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the notice of hearing was confirmed to provide the correct hearing information. The corporate landlord was represented by its agents who were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord's agents testified that they served the tenant with the notice of hearing and evidence by registered mail sent on April 7, 2020. The landlord provided a valid Canada Post tracking receipt as evidence of service. Based on the undisputed evidence I find that the tenant is deemed served with the landlord's materials on April 12, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?
Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This periodic tenancy began in July 2015. The rental unit is a suite in a multi-unit building with 44 other suites. A security deposit of \$365.00 was collected at the start of the tenancy and is still held by the landlord.

On April 1, 2020 the tenant and a guest they had allowed onto the rental property pulled another occupant out of their suite and physically assaulted them, punching and injuring them. The landlord submitted into evidence video recording of the incident as well as a written incident report. The landlord gave evidence that this was not an isolated incident but part of pattern of violent and aggressive behaviour. The tenant continues to behave in an aggressive manner and allows visitors onto the rental property threatening staff and other residents of the building.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.
- put the landlord's property at significant risk;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;
- 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;

- engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- 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 the tenancy under section 47 [landlord's notice: cause] to take effect.

I find that the landlord has provided sufficient evidence to show that the tenant has seriously jeopardized the safety of other occupants of the building and the landlord through physical assaults. Assaulting and punching another resident is an inherently violent act which seriously jeopardizes the safety and wellbeing of others. I accept that this was not simply an altercation on common property but the tenant and their guest forcibly dragging another resident from their suite for the purpose of beating and injuring them.

I find that the landlord has shown through the testimony of its agents and video evidence that the April 1, 2020 incident was not an aberration but a particularly egregious example of a continuing pattern of dangerous behaviour on the part of the tenant. I accept the landlord's evidence that the tenant continues to engage in aggressive behaviour endangers the occupants of the property. I accept the landlord's evidence that the tenant interferes with the rights of the other occupants to quiet enjoyment and several other tenants have been forced to hide in their suites out of fear. I find that under the circumstances it would be unreasonable to the other occupants of the rental building to wait for a notice to end the tenancy to take effect.

Accordingly, I issue an Order of Possession to the landlord pursuant to section 56 of the *Act*.

As the landlord's application was successful the landlord is entitled to recover the filing fee for this application. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's \$365.00 security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The security deposit for this tenancy is reduced to \$265.00.

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 20, 2020

Residential Tenancy Branch