



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On March 30, 2020, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

Both the Landlord and the Tenant attended the hearing. All in attendance provided a solemn affirmation.

The Landlord advised that he served each Tenant a Notice of Hearing package by registered mail on April 3, 2020 and the Tenant confirmed receiving these packages. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenants were served the Notice of Hearing package.

The Landlord advised that he served the Tenants with his evidence by email on April 6, 2020 and April 23, 2020; however, he did not check to see if the Tenants could view this digital evidence. The Tenant advised that he received these emails, but he was not able to review the video. However, he acknowledged having read and understood the text messages that were submitted as documentary evidence. As such, I am satisfied that the Tenants have received the Landlord’s text message evidence. Consequently, I have accepted this evidence and considered it when rendering this decision. I have excluded the Landlord’s video evidence and it will not be considered when rendering this decision.

The Tenant confirmed that he emailed this evidence to the Residential Tenancy Branch; however, no evidence was submitted for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

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 Tenants?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the most recent tenancy started on November 1, 2018 and rent was currently established at \$965.00 per month, due on the first of each month. A security deposit of around \$420.00 or \$430.00 was also paid. A signed tenancy agreement was submitted as documentary evidence.

The Landlord submitted that there have been ongoing, escalating behaviours by the Tenant which have involved drinking, arguments with the upstairs tenants, aggressive and threatening behaviours including throwing rocks at their windows, and the police have been involved on at least three occasions. He stated that previous tenants have contacted him regarding this Tenant's past behaviours, and he stated that current tenants fear for their safety.

He advised that in March 2020, the Tenant had been forcibly removed by the police for his drunken and aggressive behaviour of wanting to fight the upstairs tenants and because he was throwing rocks at their windows. He referenced the text messages submitted as documentary evidence to support his position.

The Tenant advised that he has lived there for nine years and has not had any problems until the upstairs tenants moved in. He stated that they jump and run around constantly, and because there is no soundproofing, this noise keeps them up at night. He advised that he has attempted to address these issues with them in the past but he "lost it" on spring break when they had a five-day party. He acknowledged that he was arrested because he was drunk, yelling aggressively at the upstairs tenants, and throwing rocks at their windows. He confirmed that he has "probably said something he didn't mean or shouldn't have, but [he] doesn't know what he said." He also made reference to the text messages he sent and stated that they were sent because it was "just anger."

Analysis

Section 56 of the *Act* establishes the grounds for the Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the Tenants have 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.

Based on the undisputed evidence and affirmed testimony before me, I am satisfied that the Tenant had been arrested for his conduct in March 2020. Furthermore, I am satisfied that these behaviours were intentional, aggressive, and malicious and would fall into the categories of: significantly interfering with or unreasonably disturbing another occupant or the Landlord, seriously jeopardizing the health or safety or a lawful right or interest of the Landlord, engaging 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, and engaging in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord. Moreover, I find it important to note that the Tenant messaged the Landlord with threats of violence against the upstairs tenants, and while the Tenant did not dispute this, he only stated that he could not recall what he had written, but he acknowledged that it was likely inadvisable.

The Landlord must also demonstrate that "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 for cause" to take effect. Based on the undisputed evidence and testimony of the Tenant's troublesome behavior, questionable and inappropriate commentary, and uttering of threats, I accept that there is likely a genuine concern for the ongoing safety of the other residents of the property.

Under these circumstances described, I find that it would be unreasonable and unfair to the Landlord to wait for a One Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the Landlord has provided sufficient evidence to warrant ending this tenancy early. As such, I find that the Landlord is entitled to an Order of Possession.

As the Landlord was successful in this Application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to retain \$100.00 from the security deposit in complete satisfaction of this debt.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. Should the Tenants fail to comply with this Order, this Order may be filed 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 27, 2020

Residential Tenancy Branch