



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

On April 2, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an early end of tenancy and an order of possession for the rental unit. The matter was scheduled as teleconference hearing.

The Landlord and Tenant attended the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Background

The Landlord and Tenant testified that the tenancy began on November 1, 2019, as a one-year fixed term tenancy. The parties testified that rent in the amount of \$2,100.00 is due by the first day of each month. The parties testified that the Tenant paid a security deposit of \$1,050.00.

The rental property contains two rental units occupied by Tenants under separate tenancy agreements. The Tenant attending the hearing lives in the upper rental unit.

The Landlord has applied for an early end of tenancy and is requesting an order of possession for the rental unit. The Landlord has not issued any notice to end tenancy to the Tenant.

The Landlord testified that the main reason he wants to end the tenancy is due to safety concerns.

The Landlord testified that he received a report from a neighbor that the Tenant's son had a knife and threw it. The Landlord provided a copy of an email he received regarding the incident. The Landlord testified that he did not personally observe the incident and that no threat of harm was directed at the Landlord or the other tenant of the rental property.

The Landlord also testified that the Tenant who lives in the lower rental unit overheard a conversation between the upper Tenant's son and his friend regarding a rape video. The Landlord testified that the lower tenant reported that she was feeling unsafe. The Landlord testified that the conversation that was overheard was not directed at the tenant who lives in the lower rental unit.

The Landlord testified that there was a noise disturbance where the lower tenant complained about noise from the upper Tenant.

The Landlord also raised issues of garbage being left on the property and that the Tenant's son smokes cannabis using a bong.

The Landlord testified that the complaints he has received go beyond normal teenager issues and the Landlord wants to end the tenancy.

In reply, the Tenant testified that she is a single mother who works full time hours. She testified that her son does not present a direct threat to the Landlord, or the other occupant of the rental property.

The Tenant testified that when she heard about the allegation of a conversation about a rape video, she called the police to investigate and check her sons' phone. She testified that the police informed her that there is nothing to pursue.

The Tenant testified that with respect to the knife incident, her son dropped his phone in water and was using the pointy end of a knife, described as a paring knife, as a screw

driver. When she told her son to go for a walk, he threw the knife across the floor. She testified that nobody called the police out of fear.

The Tenant testified that the neighbor who complained continues to regularly smoke on the property with the Tenant from downstairs. She submitted that the Tenant and neighbor are not scared of her children.

The Landlord testified that he does not have a problem with the Tenant; however, he continues to receive complaints about her from the other Tenant and the neighbor.

Analysis

Section 56 of the *Act* states that a Landlord may make an application for dispute resolution to request an order 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 and granting the Landlord an order of possession in respect of the rental unit. If an order is made under this section, it is unnecessary for the Landlord to give the Tenant a notice to end the tenancy.

Under section 56 of the *Act*, the director may end a tenancy and issue an order of possession only if satisfied, in the case of a Landlord's application, the Tenant or a person permitted on the residential property by 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 interest 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,
- 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
- 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 or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect.**

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to accept the Notice or dispute the Notice by applying for dispute resolution.

A Landlord has the right to issue notices to end tenancy for issues related to non-payment of rent or utilities and or for issues including breaches of a tenancy agreement; jeopardizing health or safety rights, and unreasonable disturbances.

I note that on March 30, 2020 the Minister of Public Safety and Solicitor General declared a state of emergency because of the COVID -19 pandemic. The Ministerial Order provides that a Landlord must not issue a notice to end tenancy while the Order is in effect. The Order provides that the director must not grant an order of possession under section 55(1) or 55(2) of the Act. A Landlord must not file an order of possession in the Supreme Court of British Columbia unless the order of possession was granted under section 56 or 56.1 of the Act.

I find that the Tenant's son did not threaten harm to the Landlord or another occupant of the rental property and does not present a risk to the degree that the tenancy should end without issuance of a proper notice to end tenancy. I also find that the conversation that was overheard was not directed at the other occupant of the rental property. I find that the Landlord provided insufficient evidence that the Tenant poses an immediate and severe risk to the rental property; other occupants; or the Landlord.

If the Landlord wants to pursue ending the tenancy for issues related to noise complaints, garbage, or smoking of cannabis on the property, the Landlord is at liberty issue a One Month Notice to End Tenancy for Cause once the Ministerial Order is lifted.

The Landlord's application for an early end of tenancy and an order of possession is dismissed.

Conclusion

The Landlord applied for an early end of tenancy and an order of possession. The Landlord provided insufficient evidence that the Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord.

The Landlord's application for an early end of tenancy and an order of possession is dismissed.

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 28, 2020

Residential Tenancy Branch