



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On April 8, 2020, the Landlord submitted an Application for Dispute Resolution for an early end of tenancy and an order of possession for the rental unit. The matter was scheduled as teleconference hearing. The Landlord attended the hearing; however, the Tenants did not.

The Landlord testified that the Tenants were served with the Notice of Hearing using registered mail sent to the dispute address on April 8, 2020. The Landlord provided copies of the registered mail receipts indicating the mail was sent on April 8, 2020.

I find that the Tenants were served with the Notice of Dispute Resolution Hearing in accordance with sections 89 and 90 of the Act and failed to attend in the hearing. The Tenants are deemed to have received the notice of hearing on April 13, 2020, the fifth day after it was mailed.

The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

Background

The Landlord testified that the tenancy began on March 1, 2019, on a month to month basis. The Landlord testified that rent in the amount of \$1,609.00 is due by the last day of each month. The Landlord testified that the Tenants paid a security deposit of \$804.50.

The Landlord testified that she is a 68-year-old senior citizen. She testified that on March 26, 2020 she called the Tenant, Mr. L.G. regarding collection of rent. She

testified that Mr. L.G. told her he was sleeping and for her to come collect the rent on March 28, 2020.

The Landlord testified that she attended the rental unit on March 28, 2020 and the Tenant's roommate opened the door and said that Mr. L.G. was sleeping. The Tenant's daughter came to the door and invited the Landlord into the house to speak with Mr. L.G.

The Landlord testified that she reluctantly entered and went to Mr. L.G.'s door and knocked. She testified that the Mr. L.G. opened the door and looked at her and told her to "F -off". She testified that the Tenant grabbed a large pillow and threw it at her striking her in the head. She testified that she almost fell down the stairs and had to grab a bannister located a couple feet from the door. She testified that she was shocked and shaken but not injured. She testified that Mr. L.G. is approximately 6'2" in height and approximately 230 lbs. in weight.

The Landlord testified that she immediately left the unit and went to her car and called the police who attended the rental property. She testified that the Tenant was arrested and later released.

The Landlord testified that the Tenant Mr. L.G. is aggressive. She testified that she has hired contractors who have performed work on the rental unit and have refused to return after receiving aggression and verbal abuse from Mr. L.G. The Landlord provided statements from the contractors.

The Landlord is seeking an early end of the tenancy and an order of possession for the rental unit.

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.**

[my emphasis]

Analysis

Based on the evidence above, the testimony of the Landlord, and on a balance of probabilities, I make the following findings:

The Tenants were served with the notice of hearing in accordance with the Act and did not attend the hearing to oppose the Landlord's application.

I find that the Tenant, Mr. L.G. seriously jeopardized the health or safety or a lawful right of the Landlord. I find that the Tenant threw a pillow at the Landlord striking her in the head. While I acknowledge that a pillow is not a solid object, and did not injure the Landlord, I consider the incident to be an aggressive act and it amounts to an assault.

I find that the Tenant seriously jeopardized the health or safety, or a lawful right of the Landlord and it would be unreasonable, or unfair to the Landlord, to wait for a notice to end the tenancy under section 47 to take effect.

Therefore, I am ordering that the tenancy will end immediately.

I find that the Landlord is entitled to an order of possession, effective one day after service on the Tenants pursuant to **section 56** of the Act. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenants is cautioned that costs of such enforcement are recoverable from the Tenants.

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.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenants to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. I authorize the Landlord to keep \$100.00 from the Tenants security deposit.

Conclusion

The Tenant seriously jeopardized the health or safety or a lawful right of the Landlord and it would be unreasonable, or unfair to the Landlord to wait for a notice to end the tenancy under section 47 to take effect.

The tenancy is ending immediately.

The Landlord is granted an order of possession under section 56 of the Act effective one (1) day after service on the Tenants.

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: May 01, 2020

Residential Tenancy Branch