



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **ET, FFL**

Introduction

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

- An order for an early termination of tenancy and an Order of Possession for an immediate and severe risk pursuant to section 56; and
- Authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference connection open throughout the full one hour hearing to enable the tenant to call into this hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that he served the tenant with the Notice of Expedited Hearing by email on April 17, 2020 in accordance with the director's order to serve by email issued on March 30, 2020. The landlord provided a proof of service of notice of expedited hearing in his evidence. The landlord further testified that on April 28, 2020, he received an email back from the tenant advising that the tenant would not be attending the hearing set for 'the eighth'. Given this evidence, I am satisfied the tenant was served with the Notice of Expedited Hearing in accordance with section 71 of the *Act*.

Issue(s) to be Decided

Should the tenancy end early pursuant to section 56?

Can the landlord recover the filing fee?

Background and Evidence

The landlord provided the following undisputed testimony. The rental unit is located in a detached house containing both an upper and lower suite. The upper unit is rented to a family with children and the tenant lives in the lower suite. A copy of the tenancy agreement was provided as evidence. The fixed one year tenancy began on April 1, 2020 and was set to expire on March 31, 2021. Rent is set at \$1,100.00 per month payable on the first of the month.

Immediately upon the tenant moving in, the landlord sensed erratic behaviour from the tenant. The tenant talks loudly to himself, takes photographs of the neighbour's houses and cars. He spends hours in the driveway staring at the neighbours. He also screams at the neighbours at odd hours. He goes through the neighbourhood scavenging junk from other people's garbage and hoards it in front of his rental unit and inside. The tenant has broken the locks to the rental unit and trashed the house by being unhygienic and dirty. Photos of the interior and exterior of the rental unit were provided as evidence by the landlord.

The second day the tenant lived on the property, on April 2, 2020, the tenant made a hole on the lawn of the residential property and started a fire in it. The neighbours called the landlord to advise him of the fire and the landlord attended immediately. The landlord testified that the neighbours had advised him that after starting the fire, the tenant walked away, leaving it unattended. When the landlord arrived, he witnessed the fire and testified it was 'pretty high'. The landlord testified he saw an unfamiliar gasoline tank there which indicated to him that the tenant used gasoline to accelerate the fire. The landlord told the tenant to put the fire out, however the tenant refused to do so. The landlord put it out himself with a garden hose. A photograph depicting the burn mark left on the lawn of the residential property was provided as evidence.

The landlord testified that the tenant attacked him while holding a kitchen knife in his hand on April 13, 2020. A neighbour witnessed the attack and rescued the landlord from the attack, however that neighbour was not called to testify.

Another fire was caused by the tenant on April 14th. The tenant had been annoying the neighbours and they called the police. When the police left, the tenant started another fire which the landlord had to put out with a garden hose and told the tenant to go inside. This angered the tenant, causing the tenant to once again come out with a kitchen knife, screaming at the neighbours and the landlord. The police once again attended, put the tenant in their custody and advised the landlord that the tenant would be held for psychological assessment.

The landlord testified that on Tuesday, May 5th, the tenant caused another fire, this time in front of the rental unit. The landlord told the tenant that there are fire restrictions in place in their locale and the tenant responded with 'who cares?'. This fire was located just 2 yards in front of the house and the landlord testified he knew about the fire because he saw remnants of it when he went to inspect.

The landlord called a witness MD who provided the following testimony. He's a neighbour who lives 2 houses away from the tenant. On April 14th, he witnessed the tenant with the chef's knife, repeatedly hitting his own arm with it. To the witness, the tenant seemed 'manic', waving the knife around, ranting and raving, making idle threats, and making unintelligible sounds. He didn't see the tenant go after anybody since the tenant was contained in a chained in yard although it appeared to him the tenant was acting paranoid. The witness MD testified that although he personally doesn't feel threatened by the tenant, he fears for the tenants who live upstairs could be in danger as the tenant is unpredictable and shows erratic behaviour.

Lastly, the landlord testified that the tenant sent him an email on April 28th after being sent the Notice of Dispute Resolution Proceedings. The landlord dictated the letter to me which reads (as dictated):

Dear [landlord] and concerning parties

I have been submitted under mental health Act bc regarding my health and behaviour on your property. I am apologetic of the campfire and concern of your fellow neighbours if you back to me by email as I'm currently limited in my ways of contact.

I will not be able to attend the 8th Hearing, I am deeply sorry that I have caused such a scene for you. It is and neighbor was my intention.

My lawyer will go forth in making sure you are paid for the month of May but request the hydro bill be forwarded as a picture to this email address.

I again express my deepest apologies for not being in the right mindset and having to deal with me. 1100 will be deposited into your account by the first and any hydro shortages will be adjusted in the following days. I am unsure when I will be released from hospital care as it is not within my control.

Best regards
[tenant]

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.

Based on the undisputed testimony provided by the landlord, I find the landlord has provided sufficient evidence to show the tenant has seriously jeopardized the health or safety of the other occupants of the residential property when he set fires on April 2nd

and April 14th. Even more compelling is that after the landlord filed for an expedited hearing to end the tenancy early, the tenant caused a third fire in front of the residential property, approximately two yards away from the front entrance. I find that the erratic and unpredictable behaviour of the tenant gives rise to my determination that the other occupants of the residential property may suffer from imminent danger by fire if this tenancy is not ended early.

Second, the landlord has also provided compelling testimony to satisfy me that the tenant attacked him with a knife not once but twice on April 13th and April 14th, seriously jeopardizing the health and safety of the landlord. The landlord has satisfied me that it would be unreasonable or unfair to wait for a One Month Notice To End Tenancy for Cause to take effect and I order that the tenancy end early. I issue an Order of Possession in the landlord's favour effective 2 days after service upon the tenant.

As the landlord's application was successful, the landlord is entitled to recover the filing fee. Pursuant to section 72, the landlord is to retain \$100.00 of the tenant's security deposit at the conclusion of the tenancy.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants 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.

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 08, 2020

Residential Tenancy Branch