



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to section 56 of the *Residential Tenancy Act* (the "Act") for an early end to this tenancy and an Order of Possession.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was assisted by a family member.

As both parties were present service was confirmed. The parties each testified that they were in receipt of the materials. Based on the testimonies I find each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end of the tenancy and Order of Possession?

Background and Evidence

The parties agree on the following facts. This periodic tenancy began in 2015. The rental unit is a room in a detached home with 6 individual tenancies. The tenants share some common areas and facilities. The landlord resides in a separate building on the same property.

The landlord submits that on March 13, 2020 there was a violent altercation between the tenant and another occupant of the building where the tenant kicked the occupant

and shattered their phone. The landlord submitted into evidence a written statement from the occupant as well as video footage taken by the occupant of the altercation.

The landlord submits that the encounter on March 13, 2020 is not an isolated incident but an egregious example of a pattern of hostile and unacceptable behaviour on the part of the tenant against the landlord and the other occupants of the rental building.

The tenant initially testified that the landlord's understanding of the events on March 13, 2020 was correct but later recanted and stated that they dispute that there was any such incident. The tenant submits into evidence copies of correspondence exchanged with the landlord and other occupants throughout the tenancy and their own video recordings of confronting the other occupant on a separate occasion. The tenant submits that the landlord is a "manipulative and deception person" and said that they want a monetary award for the landlord's filing a "false eviction".

The tenant's submissions consisted of various complaints about the landlord and other occupants and disparaging remarks about their conduct and character. The tenant submits that the landlord is deceitful, the other occupants of the property cause unreasonable disturbance and use the common facilities at all hours while they have acted reasonably in all instances.

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 there is a basis for this tenancy to end. I accept the evidence of the landlord that there was an incident on March 13, 2020 which consisted of a physical confrontation between the tenant and another occupant. While the tenant disputes that there was an incident I find the landlord's evidence by way of testimony, written witness statement and a video taken of the confrontation to be cumulatively sufficient to establish on a balance of probabilities that there was an altercation as stated.

I do not find the tenant to be a credible witness. They contradicted their own testimony, initially agreeing that there was an altercation on March 13, 2020 and subsequently disputing that any such incident occurred. The tenant repeatedly gave grandiose statements regarding what they believed to be the wrongdoing of the landlord and other occupants. They disputed that the incident occurred as shown on the video evidence of the landlord and could not provide a cogent explanation of why or in what manner a video recording is inaccurate. Nor did the tenant provide an explanation as to how the other occupant's phone came to be damaged. Based on their conduct and submissions at the hearing, it appears that the tenant believes their behaviour is beyond reproach and others to blame for all that is wrong with this tenancy.

The tenant's own evidence demonstrates their unreasonable conduct including confronting other occupants of the rental property and issuing hostile correspondence to others. Much of the tenant's submissions consists of attacks on the landlord's character and information irrelevant to the matter at hand such as the condition of the suite. I find

that the tenant's own evidence demonstrates that their conduct throughout the course of this tenancy has significantly interfered with and unreasonably disturbed the other occupants of the rental property.

I further find that the conduct of the tenant has seriously jeopardized the health and safety of others by engaging in a physical altercation. I find that the tenant's behaviour on March 13, 2020 was a particularly egregious example of a pattern of hostile and confrontational behaviour. I find that it would be unreasonable to the landlord and the multiple other occupants of the rental building to allow this tenancy to continue and allow the hostilities caused by the tenant to further escalate.

Pursuant to section 4(1) of the *Ministerial Order M089* issued March 30, 2020 pursuant to the State of Emergency declared on March 18, 2020, I find that it would be unreasonable for the landlord to wait for this state of emergency to end prior to receiving an Order of Possession to protect the health and safety of the residents of the rental property. Therefore, in accordance with section 4(1) of the Ministerial order and pursuant to section 56 of the *Act*, I find that the landlord is entitled to an Order of Possession.

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

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.

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: June 5, 2020

Residential Tenancy Branch