



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on May 19, 2020 (the "Application"). The Landlords applied for an order of possession pursuant to section 56 of the *Residential Tenancy Act* (the "Act") and to recover the filing fee.

The Landlords attended the hearing and provided affirmed testimony. The Tenants did not attend the hearing.

The Landlords testified the Notice of Dispute Resolution Proceeding package was served on each of the Tenants by attaching a copy to the door of the Tenants' rental unit and by email on May 21, 2020. In the absence of evidence to the contrary and pursuant to the deemed service provisions in sections 89 and 90 of the *Act*, I find the Tenants are deemed to have received these documents on May 24, 2020. The Tenants did not submit documentary evidence in response to the Application.

The Landlords were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Issue

1. Are the Landlords entitled to an order of possession?
2. Are the Landlords entitled to recover the filing fee?

Background and Evidence

The Landlords testified the Tenants rent a basement suite in their home. The tenancy agreement submitted into evidence confirms the fixed-term tenancy began on March 1, 2020 and was expected to continue to February 28, 2021. Rent in the amount of \$1,150.00 per month is due on the first day of each month. The Tenants paid a security deposit in the amount of \$575.00, which the Landlords hold.

The Landlords wish to end the tenancy. The Landlords testified that L.M.H. has yelled at and threatened them. The Landlords submitted a recent audio recording of L.M.H. shouting: "Do it. Do it. Kick me out and let this stuff happen. I'm going to kill your kids. I'm going to kill you. I'm going to kill your fucking whole family...Maybe I won't leave. Maybe I won't. Maybe I'll just leave some bombs in here and you guys can come on in...If you know the truth and are doing nothing, I'm going to kill you." Police were called to the scene.

In addition, the Landlords testified that L.M.H. has been using paint and solvent in the rental unit and that fumes are resulting in headaches and dizziness. The Landlords also testified their children are afraid that the issues have been disruptive to their schoolwork.

The Tenants did not attend the hearing to dispute the Landlords' evidence.

Analysis

Based on the unchallenged documentary evidence and affirmed oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord 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 of the *Act*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied...

- (a) *The tenant or a person permitted on the residential property by the tenant has done any of the following:*
- (i) *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
 - (ii) *seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
 - (iii) *put the landlords property at significant risk;*
 - (iv) *engaged in illegal activity that*
 - (A) *has caused or is likely to cause damage to the landlord's property,*
 - (B) *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*
 - (C) *has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
 - (v) *caused extraordinary damage to the residential property, and*
- (b) *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 [landlord's notice: cause] to take effect.*

[Reproduced as written.]

In this case, I find, that the Tenants' behaviour, which includes threats that L.M.H. would kill the Landlords and their family, and the use of paint and solvents in the rental unit, has significantly interfered with or unreasonably disturbed the Landlords, and has seriously jeopardized the health or safety or a lawful right or interest of the Landlords. Further, I find it would be unreasonable or unfair to the Landlords to wait for a notice to end the tenancy under section 47 of the *Act*.

I find the Landlords have demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenants. In addition, having been successful, I find the Landlords are entitled to recover the filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Conclusion

The Landlords are granted an order of possession, which will be effective two (2) days after service on the Tenants. The order of possession may be filed in 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 9, 2020

Residential Tenancy Branch