



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on May 22, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk.

The hearing was scheduled for 9:30 A.M. on June 11, 2020 as a teleconference hearing. The Landlord, the Landlord's Agent R.D. attended the hearing at the appointed date and time. No one appeared for the Tenants. The conference call line remained open and was monitored for 23 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord, the Landlord's Agent, and I were the only persons who had called into this teleconference.

The Landlord testified the Application and documentary evidence package was served to the Tenants in person as well as by email on May 25, 2020. The Landlord provided a proof of service in support. Based on the oral and written submissions of the Applicant, and in accordance with sections 89, 71 and 90 of the *Act*, I find that the Tenants are deemed to have been served with the Application and documentary evidence on May 30, 2020.

The Tenants did not submit documentary evidence in response to the Application.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?

Background and Evidence

The Landlord testified that the tenancy began on November 15, 2019. Currently, the Tenants pay rent in the amount of \$1,300.00 which is due to the Landlord on the first day of each month. The Landlord stated that the Tenants paid a security deposit in the amount of \$650.00 which the Landlord continues to hold. The Landlord stated that Tenant R.B. has vacated the rental unit, while Tenant R.W. continues to occupy the rental unit.

The Landlord stated that she is seeking to end the tenancy early as the Tenant and her guests have;

“significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health and safety or lawful right of another occupant or the landlord, and put the Landlord’s property at significant risk.”

The Landlord stated that the Tenant and their guests have been engaging in risky and escalating behaviour at the rental unit for some time now. The Landlord stated that the Tenant has verbally threatened her on three occasions since March 2020. The Landlord stated that she is fearful of attending the rental unit on her own as a result.

The Landlord stated that the Tenant smokes in the rental unit and has no regard for the no smoking condition in the tenancy agreement. The Landlord stated that despite several warnings, the Tenant continues to smoke in the rental unit, which is effecting the upstairs occupants health and quiet enjoyment of the rental unit. The Landlord stated that the Tenant has indicated that she is prone to “black outs” which has caused some concern given that smoking in the rental unit while having a “black out” may pose a fire hazard.

The Landlord stated that most recently, the Tenant has been partying and making noise until 3:00 AM in the morning. The Landlord stated that there have been fights in the

rental unit which has generated Police attendance to the rental unit. The Landlord stated that the Police have attended the rental unit 10 times in the past few months.

Most recently, the Landlord stated that the Tenant has retaliated against the upstairs occupants and the Landlord by turning off the hot water tank, leaving to upstairs occupants without hot water for almost one week. The Landlord stated that the Tenant has also turned off the breakers in the fuse box which correspond with the upstairs rental unit. The Landlord stated that the Tenant refuses access to the Landlord, stating that she has COVID-19. The Landlord stated that she is concerned for her property and the safety of the occupants who reside upstairs. The Landlord stated that she contacted the Police in relation to these incidents.

Given the escalating frequency and severity of the incidents caused by the Tenant, the Landlord is concerned for her own safety, as well as the safety of the other occupants and her property. As such, the Landlord is seeking to end the tenancy early.

Analysis

Based on the unchallenged and affirmed documentary evidence and 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 had 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.

The causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the Tenant must be extreme and require immediate action.

In this case, the Landlord's unchallenged evidence and testimony indicated that the Tenant's actions are escalating in severity and that the Landlord fears for her safety, as well as the safety of the other occupant and the property. The Landlord's main concerns surround verbal threats, parties, fighting, smoking in the rental unit, Police contact and most recently, the Tenant turning off the hot water and electricity to the rental unit above.

I find that the Tenant and her guest have significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health and safety or lawful right of another occupant or the landlord, and put the Landlord's property at significant risk. Further, I find it would be unreasonable or unfair to the Landlord and other occupants to wait for a notice to end the tenancy under section 47 of the *Act*.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenants.

Conclusion

The Landlord is 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 11, 2020

Residential Tenancy Branch