



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.

The tenants did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord appeared and with the assistance of a family member, was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served each of the tenants with the notice of hearing and evidence by registered mail sent on May 29, 2020. The landlord provided two valid Canada Post receipts and tracking information as evidence of service. Based on the evidence I find that each of the tenants is deemed served with the landlord's materials on June 3, 2020, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

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

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This tenancy began in June, 2019. The monthly rent is \$2,000.00 payable on the first of each month. The rental unit is the upper level of a detached home in a residential neighborhood. Another occupant resides in the lower level of the building.

The landlord submits that the tenants have engaged in behaviour that has caused significant disturbance to the other occupant by playing loud music and making noise in their rental unit and by keeping the rental property in a state of disarray. The noise has been at a level and frequency that has disturbed the other occupant of the property as well as neighbors and has required the municipal authorities to be involved.

The rental property is suffused with debris, garbage and receptacles that are not permitted under municipal bylaws and pose a significant risk of attracting wildlife. The municipality has issued multiple warning letters regarding the state of the rental unit. The landlord submitted into evidence copies of the municipal warning letters, and complains received from their occupant as well as numerous photographs of the condition of the suite.

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 totality of the evidence I am satisfied that the tenants have engaged in conduct that has significantly disturbed the other occupants of the building, poses a serious jeopardy to the health and safety of others and has put the property at significant risk. I find that warning letters issued by the municipal authorities demonstrates that there is an ongoing level of noise which disturbs others in the neighborhood. The noise is coupled with garbage and debris strewn about the property which poses a clear risk to others who must navigate around the items and as an attractant for wildlife.

I find the evidence of the landlord sufficient to establish the ongoing disturbance and risk posed by the tenants. I accept that this is part of an ongoing pattern of behaviour on the part of the tenants and that they have not altered their conduct despite the multiple warnings issued. I find that it would be unreasonable and unfair to both the landlord and the other occupants to allow this tenancy to continue.

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 15, 2020

Residential Tenancy Branch