



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

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

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The landlord attended and 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 the tenants with the notice of hearing and evidence by registered mail sent on June 9, 2020. The landlord provided a valid Canada Post receipt and tracking information as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on June 14, 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 end of tenancy and Order of Possession?
Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

This fixed-term tenancy began in November 2019. Monthly rent is \$1,400.00 payable on the 6th of each month. A security deposit of \$700.00 was collected at the start of the tenancy and is still held by the landlord. The rental unit is a suite in a detached home with the landlord occupying another unit and a third occupant residing in a separate unit.

The landlord submits that since the tenancy started the tenant has engaged in behaviour that has caused significant disturbance to the other occupants by making loud noise in the rental unit, engaging in violent altercations within and around the rental property and keeping the rental unit in a state of disarray. The noise and violent interactions have been of a level and frequency that has caused the other occupant of the property to make multiple complaints and has required municipal authorities to be involved.

In addition, the landlord submits that the tenant has disabled and possibly damaged the smoke detector in the rental suite so that the property is at risk of fire damage. The landlord submitted into evidence photographs showing burn marks and damage caused by the tenant in the rental suite and said that the tenant's behaviour puts the property at significant risk.

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 the documentary evidence shows an ongoing level of noise which disturbs and frightens the other residents of the building and the neighborhood. It is not simply the volume of the noise created by the tenant but the hostile interactions causing the noise which significantly disturbs those who hear the sounds. This is not simply a case of a tenant who is loud but one who engages in hostile behaviour causing sounds of violence which disturbs any reasonable person within earshot.

I accept the evidence of the landlord that the tenant has disabled the fire alarm in the rental suite and find that this is behaviour which inherently poses a jeopardy to the health and safety of other occupants of the building.

I find the evidence of the landlord sufficient to establish the ongoing disturbance and risk posed by the tenant. I accept that this is part of an ongoing pattern of behaviour on the part of the tenant and that they have not altered their conduct despite the landlord attempting to find a resolution through discussion with the tenant. I find that it would be unreasonable and unfair to both the landlord and the other occupants of the building to allow this tenancy to continue.

Pursuant to section 4(1) of the *Ministerial Order M195* issued June 24, 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.

As the landlord was successful in their application they are entitled to recover their filing fee from the tenant. I allow the landlord to do so by retaining \$100.00 of the security deposit for this tenancy. The security deposit is therefore reduced from \$700.00 to \$600.00.

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.

The security deposit for this tenancy is reduced by \$100.00 to \$600.00.

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 26, 2020

Residential Tenancy Branch