



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1174008 B.C. Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Code: ET

Introduction

In this dispute, the landlord applied for dispute resolution on June 22, 2020 and seeks an order pursuant to section 56(1) of the *Residential Tenancy Act* (the “Act”),

A dispute resolution hearing was held, by teleconference, on July 14, 2020 at 9:30 AM. The landlord’s agent (hereafter the “landlord”) attended the hearing and was given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses; the tenant did not attend.

The landlord testified that he served the Notice of Dispute Resolution Proceeding package on June 22, 2020 by way of Canada Post registered mail. A copy of the registered mail tracking number and receipt were submitted into evidence, and the online Canada Post tracking website indicated that the package was delivered on June 24, 2020. Based on the above undisputed oral and documentary evidence I find that the landlord served the tenant with the Notice of Dispute Resolution Proceeding in compliance with Rule 10.3 of the *Rules of Procedure* as it pertains to expedited applications, and in compliance with section 89(2)(b) of the Act.

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issue of this application.

Issue

Is the landlord entitled to an order pursuant to section 56(1) of the Act?

Background and Evidence

By way of background, the tenancy commenced June 1, 2006 and it is a month-to-month tenancy. Monthly rent is \$900.00, which is due on the first of the month, and the tenant paid a security deposit of \$400.00. A copy of a written tenancy agreement (which reflects a previous landlord) was submitted into evidence.

In this application, the landlord testified that the tenant has engaged in frequent and ongoing activity involving the possession of drugs, the trafficking of drugs, providing shelter to drug addicts and criminals, and destruction of the landlord's property. The tenant has, as an aside, also not paid rent for some time now.

A witness statement dated June 19, 2020 (and authored by one D.O., who is an occupant in another part of the property) states the following:

I live at [address] and have lived there so over five years. The drug activity is crazy so many people coming and going all hours of the day and night people scream fighting cops are there all the time stolen property I have kids and there are other kids around it is not save [sic] something need to be done please

The landlord testified that he has personally witnessed drug dealing occurring at the rental unit and that the activity is "very regular." Indeed, on one occasion within the past several weeks he observed at least five different people enter into the back of the rental unit only to exit from the front about 5-10 minutes later. This is indicative of dealing.

Further, the landlord testified that the tenant allegedly broke a window of the unoccupied basement suite after the landlord changed the lock to the door. The door had previously been accessed by the tenant, who apparently allowed people to sleep in the basement. The landlord found various belongings, such as a wallet, a purse, needles, and so forth, and in his opinion these items were "clearly associated" with the tenant's drug activity.

Approximately two weeks ago, when the landlord was attending to the property and repairing the basement suite, the tenant threw a humidifier at the landlord whilst shouting expletives. The landlord was slightly injured, but fortunately was "OK" after the incident.

In summary, the landlord testified that he is "terrified of another break-in."

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 56(1) of the Act permits a landlord to request an order (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47, and (b) granting the landlord an order of possession.

In order for me to grant an order under section 56(1), I must be satisfied that at least one subsection of section 56(2), as follows, occurred:

- (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 landlord's 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.

In this case, the witness statement, the landlord's testimony, and the photographs lead me to conclude that the tenant has engaged in conduct referred to in sections 56(2)(a)(i)

through (iv)(B), and 56(2)(v), of the Act. Most concerning is the tenant's throwing the humidifier at the landlord; this is *prima facie* an assault with a weapon causing bodily harm (s. 267 of the *Criminal Code*) and which seriously jeopardized the landlord's health and safety. Finally, I find that it is unreasonable and unfair for the landlord and other occupants to have to wait for a notice under section 47 of the Act.

Taking into consideration all the undisputed oral and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has proven his claim for an order under section 56(1) of the Act.

Therefore, I order, pursuant to section 56(1)(a) of the Act that the tenancy ends immediately as of today's date. Further, pursuant to section 56(1)(b) of the Act, I grant the landlord an order of possession in respect of the rental unit.

Conclusion

I HEREBY ORDER THAT, pursuant to section 56(1) of the Act:

1. the tenancy is ended effective immediately (July 14, 2020); and,
2. the landlord is granted an order of possession, which must be served on the tenant and which is effective two (2) days from the date of service. The order of possession may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

This decision is final and binding, except where otherwise permitted under the Act, and is made on authority delegated to me under section 9.1(1) of the Act.

Dated: July 14, 2020

Residential Tenancy Branch