



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on June 18, 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; and
- a monetary order granting the recovery of the filing fee.

The hearing was scheduled for 11:00 A.M. on July 7, 2020 as a teleconference hearing. The Landlord R.S., the Landlord's Agent H.S., the Landlord's Advocate S.M., the Landlord's Counsel D.M., and the Landlord's witnesses S.T. and A.K. attended the hearing at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 48 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, the Landlord's Counsel, the Landlord's Advocate, the Landlord's witnesses, and I were the only persons who had called into this teleconference.

The Landlord's Advocate testified the Application was posted to the Tenant's door on June 19, 2020. The Landlord's Advocate stated that the Landlord's documentary evidence was also posted to the Tenant's door on July 3, 2020. Based on the oral and written submissions of the Applicant, and in accordance with Section 71 of the *Act*, I find that the Tenant is deemed to have been served with the Application on June 22, 2020, the third day after it was posted to the Tenant's door. In relation to the Landlord's documentary evidence I find that the Tenant is deemed to have been served on July 6, 2020. The Tenant did not submit any documentary evidence in preparation for the hearing.

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*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord's Agent testified that the tenancy began on September 23, 2011. Currently, the Tenant pays rent in the amount of \$1,200.00 which is due to the Landlord on the fourth Wednesday of each month. The Landlord's Agent stated that the Tenant paid a security deposit in the amount of \$475.00 which the Landlord continues to hold. The Landlord's Agent stated that the Tenant continues to occupy the rental unit.

The Landlord's Agent stated that the Landlord 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."

"engaged in illegal activity that has or is likely to: damage the Landlord's property, adversely affect the quiet enjoyment, security, safety, or physical wellbeing of another occupant, and jeopardized a lawful right or interest of another occupant or the Landlord."

The Landlord's Agent stated that the Tenant and her guest have been involved in constant drug dealing, prostitution, and have been threatening to harm the Landlord. The Landlord's Agent stated that Police attend the rental unit on a regular basis and that it was subject to a search warrant on May 27, 2020. The Landlord's Agent stated that the Tenant and her guests have escalated their criminal behaviour to a point where the Landlord and the neighbours are fearful of leaving their homes.

The Landlord made two witnesses available who testified that they continuously experience undesirable guests jumping their fence to gain access to the Tenant's rental unit. There is an increase in vandalism and theft in the area which can be attributed to the Tenant and her guests. The Landlord's Agent and the witnesses stated that they phone the Police regularly to deal with the criminal activity that occurs on a daily basis,

and that they have also formed a block watch program to try and deter the Tenant's guests from returning to the neighbourhood.

The Landlord's Agent stated that she attended the rental unit on May 29, 2020 to collect the rent, at which point the Tenant and her guests became threatening and abusive. The Landlord's Agent stated that the Tenant threatens to make false allegations about the Landlord. The Landlord's Agent stated that the situation has reached a point where it is unmanageable and that the risk to the property, the Landlord and others in the neighbourhood is extreme.

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 has been involved in criminal activity such as using and selling illicit substances, prostitution, vandalism, theft, threats and intimidation. The Landlord's Agent as well as the witnesses each provided their account of the ongoing issues and fear that the Tenant and her guests have caused to the neighbourhood.

I find that the Tenant and her guest have significantly interfered with or unreasonably disturbed another occupant or the Landlord, and engaged in illegal activity that has or is likely to: damage the Landlord's property, adversely affect the quiet enjoyment, security, safety, or physical wellbeing of another occupant, and jeopardized a lawful right or interest of another occupant or the Landlord. 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 Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenant. In addition, having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. 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: July 07, 2020

Residential Tenancy Branch