



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 for this application, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:58 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord and his wife attended the hearing and both were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. 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 that the landlord, landlords' wife, and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was served with the landlord's application for dispute resolution package and evidence on June 18, 2020, by way of registered mail. The landlord the tracking information in their evidentiary materials. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenant deemed served with the landlord's Application and evidence on June 23, 2020, 5 days after mailing. The landlord uploaded additional evidentiary materials after June 18, 2020, which they testified was not served on the tenant as the tenant refused to provide the landlord with an email address. As these additional evidentiary materials were not served on the tenant, they were excluded for the purposes of this hearing. The tenant did not submit any written evidence for this hearing.

Issues(s) to be Decided

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

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below

The landlord provided the following submissions. This fixed-term tenancy began on June 1, 2020, with monthly rent set at \$1,400.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$700.00, which the still hold.

The landlord filed an application for an early end of this tenancy on an expedited basis due to the serious and threatening nature of the incidents that have taken place during this tenancy. The landlord testified that they believe that the tenant may have vacated the suite, but as they have not received any confirmation from the tenant, they still wished to proceed with the hearing and request an Order of Possession.

The landlord testified that they had noticed the tenant would smoke on the property, which was prohibited. The landlord issued several warnings to the tenant, and the tenant would respond in an aggressive manner towards them. On June 14, 2020, when the landlord attempted to warn the tenant about his smoking, the tenant threatened to punch the landlord "Bruce Lee style".

In additional to verbal threats, the landlords described a series of escalating incidents which involved the attendance of police, and ultimate arrest of the tenant and criminal charges against him. The landlord testified that the tenant had taken a hockey stick and puck and hit the wooden fence in order to threaten and intimidate the landlord.

The landlord testified that on July 7, 2020, around noon, the tenant had pushed the landlord's potted plant to the center of the yard, and set fire to the plant with a lighter. The landlord testified that this took place 2 meters from a greenbelt, and 3 meters from a storage shed containing flammables. Around 3:30 p.m. the tenant attempted to set another fire.

The landlord testified at 10:40 p.m., on July 7, 2020, the tenant had taken his bike out of storage and used it to cause damage to the gas meter, causing it to leak. The landlord testified that the tenant ran away, and they noticed a strong rotten egg smell, as well as whistling sound. The landlord called 911, and the fire department attended to turn off

the gas and contact the gas company. The landlord testified that the tenant returned around 2:30 a.m., and admitted to the police that he had done this.

The landlord testified that on July 13, 2020, the tenant spat on the landlord, and said he had a knife. The tenant then took off his pants and exposed himself while making gestures towards the landlord's wife. The landlord testified that they had recorded this on video and submitted this to the police.

The landlord testified that the tenant was arrested, charged and released on conditions. The landlord testified that the tenant's ongoing and escalating behaviour has caused the landlord and neighbours to become extremely fearful for their safety.

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 a notice to end the tenancy were given under section 47 for a landlord's notice for cause. 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 evidence and sworn testimony before me, I find that sufficient evidence has been provided to warrant an end to this tenancy for several of the reasons outlined

in section 56, as outlined above. I find that the tenant has seriously jeopardized the health or safety or a lawful right or interests of the landlord, his wife, and potentially other residents in the neighborhood. The landlord is seeking an Order of Possession as the landlord is concerned that the tenant's behavior is threatening and violent in nature, and has escalated to the extent that they are extremely fearful of the tenant.

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate that "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" for cause to take effect. On this point, I find that the reasons cited by the landlord for circumventing the standard process for ending a tenancy for cause meet the test required to end this tenancy early as this matter pertains the immediate safety of the landlord and their property.

The deliberate damage caused by the tenant in such a short period of time during this tenancy, combined with the serious and violent nature of the threats that have taken place during these incidents are quite worrisome. Although it would have been preferable to have some of the witnesses in attendance at the hearing to provide direct, sworn testimony, I also note that the tenant has chosen to not appear at this hearing, nor has he provided any contrasting accounts by way of written evidence.

The main reason for the urgent nature of this application is the immediate risk to the safety of the landlord and other occupants, and I find that the landlord has provided sufficient evidence to support this. Of particular concern are the ongoing threats of physical violence against the landlords, along with the damage to their property, which highlights the potential volatility that the landlord and his wife may face if this tenancy continues, and the potential for further violence and damage towards them and their property.

Under these circumstances, I find that it would be unreasonable and unfair to the landlord and his wife to wait for a 1 Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the landlord has provided sufficient evidence to warrant ending this tenancy early. I issue a two day Order of Possession to the landlord.

I allow the landlord's application to recover the \$100.00 filing fee from the tenant. Using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$100.00 of the security deposit in satisfaction of this monetary award.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I allow the landlord to recover the \$100.00 filing fee by allowing the landlord to retain \$100.00 from the security deposit for this tenancy.

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 16, 2020

Residential Tenancy Branch