



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 the *Residential Tenancy Act* ("the *Act*") for an early end to this tenancy and an Order of Possession pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agents, SF and ST, 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's agents and I were the only ones who had called into this teleconference.

The landlord's agents testified that the tenant was served with the landlord's application for dispute resolution package and evidence on August 6, 2020, by posting the package on the tenant's door. 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 August 9, 2020, 3 days after posting. 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?

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 month-to-month tenancy began on November 1, 2018, with monthly rent currently set at \$435.00, payable on the first of the month. The landlord collected a security deposit in the amount of \$375.00.

The landlord is seeking an early end of this tenancy for the following reasons. On July 5, 2020 the tenant assaulted a guest in the neck with a knife. The tenant was arrested by the police, and after an investigation by the landlord, the landlord issued the tenant a 1 Month Notice to End Tenancy for Cause on July 17, 2020, with an effective date of August 31, 2020.

On July 26, 2020, the tenant was involved in another incident where she had pepper sprayed a guest in her rental unit. After this second incident, the landlord feels that the continuance of this tenancy puts the immediate safety and well-being of other tenants, occupants, and guests at risk in this 44 unit, multi-tenanted building. The landlord provided police file numbers, incident reports, as well as copies of the warning letters sent to the tenant in their evidentiary materials.

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 others while residing in this multi-tenanted building. The landlord is seeking an Order of Possession as the landlord is concerned that the tenant had engaged in two violent incidents within a short period of time, the second incident taking place shortly after being served with a 1 Month Notice.

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 residents, occupants, and their guests in this multi-unit building. Although the tenant was served with a 1 Month Notice, the tenant continued to engage in violent behaviour towards others.

The serious and violent nature of the incidents that have taken place within a short period of time is quite worrisome. I note that the tenant has chosen to not appear at this hearing, nor has the tenant 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 their guests, and I find that the landlord has provided sufficient evidence to support this. Of particular concern is the fact that the tenant continued to engage in similar behaviours despite being served with warning letters and a 1 Month Notice, which highlights the potential volatility that the landlord and others may face if this tenancy continues, and the potential for further violence at this property.

Under these circumstances, I find that it would be unreasonable and unfair to the landlord 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.

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.

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: August 28, 2020

Residential Tenancy Branch