



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Prince Motel
and [tenant name suppressed to protect privacy]

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 from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:18 a.m. in order to enable them to call into this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was 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 from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that they handed the 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) to the tenant on July 2, 2020. They said that the tenant signed for receipt of the 1 Month Notice. I find that the tenant was duly served with this Notice in accordance with section 88 of the *Act*. The landlord testified that they handed the tenant a copy of their dispute resolution hearing package and written evidence on August 24, 2020. The landlord entered into written evidence a copy of the tenant's written confirmation that they received that material on August 24, 2020. I find that the tenant was duly served with this material in accordance with sections 88 and 89 of the *Act*.

Issues(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord said that the tenant moved into this room in their motel in April 2020. They currently receive a total of \$800.00 in monthly rent for this rental unit. The landlord continues to hold a \$200.00 security deposit for this tenancy.

The landlord entered into written evidence a copy of the 1 Month Notice to End Tenancy, requiring the tenant to end this tenancy by July 31, 2020, for the following reasons cited in that Notice:

Tenant or a person permitted on the property by the tenant has:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

At the hearing, I advised the landlord that the effective date of the 1 Month Notice was incorrect as the earliest effective date that the 1 Month Notice issued on July 2, 2020 could obtain possession of the rental unit was August 31, 2020. The corrected effective date for that Notice automatically changes to August 31, 2020.

The landlord gave sworn testimony and written evidence that there have been a series of ongoing disturbances caused by the tenant. The most alarming of these occurred when a bullet was fired from the rental unit into the ceiling of that unit which departed the roof of the building. They maintained that the police have had to be called with respect to this incident and that there have been loud parties late into the night, which have disturbed other residents in the property,

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. 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.

Although the tenant did not attend the scheduled teleconference hearing, I still must be satisfied that the landlord has reason to end this tenancy early and issue an Order of Possession on that basis.

I should first note that section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. As there is no evidence that the tenant applied to cancel the 1 Month Notice, I find that the tenant has failed to file an application for dispute resolution within the ten days of service granted under section 47(4) of the *Act*. Accordingly, the tenant is conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy ended on the corrected effective date of the 1 Month Notice, August 31, 2020.

Based on the undisputed written evidence and sworn testimony of the landlord, I find that the landlord has demonstrated sufficient reason to warrant an end to this tenancy for the reasons outlined in both portions of section 56, as outlined above. I find that the tenant has

- *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
- *seriously jeopardized the health or safety or lawful right of another occupant or the landlord;*
- *put the landlord's property at significant risk.*

I also find that the landlord had understandable reasons, given the incident involving the firing of a gun inside the rental unit, to end this tenancy early without waiting for the 1 Month Notice to take effect.

Under these circumstances, as the tenant has not attended the hearing to dispute the landlord's application and as the corrected effective date for the 1 Month Notice has already passed, I allow the landlord's application for an early end to this tenancy and issue an Order of Possession to the landlord.

Since the landlord is successful in this application, I allow them to recover their \$100.00 filing fee from the tenant.

Conclusion

I allow the landlord's application for an early end to this tenancy and 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's application to recover their \$100.00 filing fee for this application from the tenant. In order to implement this monetary award, I order the landlord to retain \$100.00 from the security deposit for this tenancy, the value of which is hereby reduced from \$200.00 to \$100.00.

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: September 01, 2020

Residential Tenancy Branch