



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution, seeking remedy under the *Residential Tenancy Act* (the Act) for an order to end the tenancy early and to receive an order of possession, due to health or safety issues, and to recover the cost of the filing fee.

The landlord and tenant attended the teleconference hearing. The parties were provided the opportunity to provide affirmed testimony and were provided the opportunity to present evidence submitted in accordance with the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) and makes submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The tenant confirmed that they had received the evidence from the landlord; however, not until midway through the hearing, did the landlord and tenant confirm that the letters of complaint regarding the tenant had been redacted by the landlord to protect those that wrote the letters.

Preliminary and Procedural Matters

Firstly, Rule 3.7 applies and states:

To ensure a fair, efficient and effective process, **identical documents** and photographs, identified in the same manner, must be served on each respondent and uploaded to the Online Application for Dispute Resolution or submitted to the Residential Tenancy Branch directly or through a Service BC Office.

[Emphasis added]

As a result of the above, I have excluded all letters of complaint as they were not identical to the letters served on the RTB.

Secondly, the parties confirmed their email addresses and were advised that the decision would be sent to both parties by email.

Issue to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession for health or safety purposes under the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

The parties confirmed there is no written tenancy agreement. The parties confirmed that a verbal tenancy began in December 2015. The landlord writes in their application the following:

This tenant is selling drugs to anyone and everyone but a lot to the youths of this valley. We have now lost 6 youths and a young adult at her hands. She is a threat to the condo unit where she lives by damaging property and attracting very scary people into the small community. The children are not allowed to play outside without supervision and vewhicles (sic) are constantly being broken into. The golf course and restaurant adjacent to the unit has been vandalized/terrorized by her and her clients.

The landlord confirmed that there were not witnesses during the hearing to provide direct evidence and that the landlord has not served the tenant with a One Month Notice to End the Tenancy for Cause lately.

When the landlord was asked about specific dates regarding calls to the police or dates in which the landlord claims to have seen people attend at the door of the rental unit, the landlord was unable to provide any specific dates. The landlord was also unable to provide a police file number or date that they contact the police about this rental unit.

The landlord confirmed that the tenant has not specifically threatened the landlord and alleges that the tenant is dealing drugs out of the rental unit. The tenant denied that she is dealing drugs and has had no arrests since 2004.

The landlord confirmed that they have called the police at least three times to attend the rental unit, which the tenant denied. The landlord did not have dates to provide for any of the three times the landlord was referring to regarding police attending the rental unit. The tenant testified that police have only attended the rental unit when the tenant has called the police themselves.

Analysis

Based on the documentary evidence and the testimony during the hearing and on a balance of probabilities, I find the following.

Section 56 of the Act indicates:

56(1) A landlord may make an application for dispute resolution 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 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) 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, in the case of a landlord's application,**

(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.

[Emphasis added]

The burden of proof is on the landlord to prove that it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end tenancy under section 47 to take effect. The landlord did not provide evidence that a 1 Month Notice to End Tenancy for Cause (1 Month Notice) has been served on the tenant.

Firstly, as the redacted documentary evidence was excluded as it was not served on the tenant in accordance with the RTB Rule noted above, and given the landlord's vague testimony and lack of specific details, I find the landlord has failed to meet the high burden of proof to support this application under section 56 of the Act. In fact, I would have expected that at the very least, the landlord would have issued a 1 Month Notice, which was not presented at the hearing. In addition, I would have expected the landlord to have had a statement from the police or a police officer in attendance at the hearing to provide evidence if police were concerned about drug dealing from this unit. And finally, I had no direct witness testimony before me at the hearing and anonymous complaints do not reach the threshold for eviction under the Act as I find that the other party would have no way to rebut complaints from someone that is anonymous and that accepting anonymous evidence would be unfair to the respondent and create an unfair hearing.

As a result of the above, I find that the landlord has failed to meet the burden of proof in proving that the tenancy should end early, and that it would be unreasonable and unfair to the landlord or the other occupants to wait for a notice to end tenancy under section

47 of the Act. The landlord may wish to serve a 1 Month Notice under the Act as a result. Consequently, I **dismiss** the landlords' application due to insufficient evidence.

The filing fee is not granted as this application has been dismissed.

Conclusion

The landlord's application fails and is dismissed due to insufficient evidence. The tenancy shall continue until ended in accordance with the Act.

This decision will be emailed to the parties at the email addresses confirmed by the parties during the hearing.

The filing fee is not granted as noted above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 8, 2020

Residential Tenancy Branch