



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On August 27, 2020, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant Section 72 of the *Act*.

The Landlord attended the hearing, with P.K. and M.B. attending as agents for the Landlord. The Tenant attended the hearing as well. All in attendance, except M.B., provided a solemn affirmation.

At the outset of the hearing, the Tenant was asked about the written request for an adjournment that she submitted the day before the hearing. The request appeared to pertain to her wanting to file her own Application for Dispute Resolution on unrelated matters, so she was asked if she still wanted to request an adjournment. She advised that she was not seeking one anymore; however, she then changed her mind and stated that she needed more time to get statements from witnesses.

She submitted that some of the parties that she wanted to obtain witness statements from currently live in the building and they were in fear of jeopardizing their own tenancies, so they did not want to provide statements. She stated that she received one statement on the day before the hearing and one statement on the day of the hearing; however, she did not submit these as documentary evidence. She also stated that she only had two weeks to prepare her defence and that she had also been spending time preparing her own Application for Dispute Resolution.

The Landlord was asked his position on the Tenant’s request for an adjournment and he stated that he was opposed to this request as the other residents of the building are worried for their safety and the RCMP recommended that he take action immediately. .

P.K. advised he has received direct calls from the RCMP requesting to have this matter dealt with immediately. He stated that the Tenant is always the aggressor in every reported incident, and while she has always been cordial with him, he has observed her

to be belligerent. He has also observed her aggressively banging the walls of the building with a stick.

When the Tenant was asked to explain how the witness statements she was seeking to obtain were directly relevant to the Landlord's Application for an early end of tenancy, it was evident that these statements were more relevant to the Application she was seeking to file. In addition, given that she advised that these other residents were allegedly fearful of reprisal from the Landlord if they provided statements, it was not clear to me when exactly they would be able to provide these statements.

Rule 7.9 of the Rules of Procedure provides the applicable criteria for the granting of an adjournment. Based on the expedited nature of this type of Application, as the Tenant could not provide a reasonable timeframe for when she would expect to have these statements, nor could she provide an explanation of how she would be able to obtain these statements if the other residents were not inclined to provide them, I find that adjourning the hearing would be prejudicial to the Landlord. As such, I did not grant the Tenant's request for an adjournment.

P.K. advised that the Tenant was served the Notice of Hearing and evidence package by hand on August 28, 2020 and the Tenant confirmed that she received this package. Based on this undisputed evidence, I am satisfied that the Tenant was served the Notice of Hearing and evidence package in accordance with Sections 89 and 90 of the Act. As such, the Landlord's evidence will be accepted and considered when rendering this Decision.

The Tenant advised that she did not submit any evidence for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(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?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on July 1, 2018, that the rent was currently established at \$1,100.00 per month, and that it was due on the first day of each month. A security deposit of \$400.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

The Landlord provided broad, generalized submissions for why he was making this Application. He stated that the Tenant had been repeatedly causing issues in the building by uttering threats constantly, by making death threats, by creating altercations with other residents, and by engaging in physical fights with other residents. He submitted that the police have attended multiple times, that they warned him about her criminal record, and that they recommended that he take action to evict her. He stated that on account of her ongoing behaviour, many of the other residents have moved out of the building and that there are many units sitting vacant. When he was asked to elaborate on these submissions to provide more detailed information or to directly refer to evidence submitted, he was unable to do so.

M.B. advised that there have been at least three incidents where the Tenant has uttered death threats to other residents of the building. He referenced documents submitted as evidence, from different residents of the building, supporting these claims. At least one of these incidents was reported to the police and the police attended and spoke with the Tenant. He cited two police reports that were submitted as documentary evidence; however, one report states that "Threats did not meet criminal code charge." He also advised that the Tenant made reported threats to harm another resident's pet and that there was a recording of this incident; however, the recording was not entered into evidence.

P.K. referenced a letter submitted as documentary evidence to reiterate that the Tenant has repeatedly threatened another resident's dog. He also advised that the Tenant is often inebriated, that the issues stem from the Tenant's indulgence of alcohol, and he cited the submitted police reports to demonstrate that the Tenant's constant level of intoxication is the source of the difficulties in the building.

The Tenant advised that for all of the aforementioned incidents, there were no other people involved to corroborate the Landlord's claims. Regarding the allegation of a threat to a pet, she stated that she warned another resident that she would kick her dog if she was bit by it again. However, she never made any threats to kill any pets.

She stated that she never made any death threats to any of the residents in the building and that these allegations are fabricated. However, she did vaguely allude to some sort of altercation with an elderly resident that the Landlord claimed she had told to "go have a heartache and die."

With respect to one incident of a physical altercation with another resident, she stated that she went outside to smoke with another resident of the building. She advised that

she was comforting her and that she “doesn’t remember what happened” but this other resident then hit her. She confirmed that she had been drinking and could not remember what was the reason for why she was attacked. She advised that she had a massive bruise on her back, that she could not breathe due to a “collapsed lung”, and that a friend took her to the hospital later. She stated that she had no idea why the police were called; however, she does not remember if she told the police she was injured. She submitted that the police “poked their head over the porch”, told her not to drink, and then left.

Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 56 of the *Act* establishes the grounds for the Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. In order to end a tenancy early and issue an Order of Possession under Section 56, I need to be satisfied that the Tenant, or a person permitted on the residential property by 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.

When assessing the evidence before me, I find it important to address the allegation of the physical incident that the Tenant had with another resident of the building. Firstly, the consistent evidence is that the Tenant confirmed that she had consumed alcohol that evening. While she portrayed a scenario that she was simply consoling this other

resident prior to being unexpectedly attacked, I found her submissions to be vague, illogical, and inconsistent.

As she testified that she suffered from a collapsed lung, I do not find it reasonable or likely that she did not exhibit obvious signs of being injured or that she would not have advised the police of this. Moreover, if she were assaulted, given how badly injured she claims to have been, I am doubtful that the police would not have noticed this, or that they would have simply advised her not to drink anymore and then leave the scene. I find the Tenant's submissions to be dubious, and this causes me to doubt her credibility on the whole. As a result, I am satisfied that the relevant police report portrays a more accurate depiction of the Tenant being intoxicated and the antagonist in this incident.

Given that the Tenant acknowledged that alcohol has played a factor in at least some of the alleged incidents, and that she confirmed that she has difficulty remembering details, I find that this is consistent with the Landlord's evidence that the Tenant is often intoxicated and that this is the source of the problematic behaviours. As such, I am satisfied on a balance of probabilities that the Tenant is more likely than not, not accountable for her actions and behaviours. While she denies uttering death threats to other residents, when reviewing the totality of the evidence before me, I am satisfied on a balance of probabilities that the Tenant has likely uttered these death threats, either knowingly or unknowingly.

The Landlord must also 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. Based on the consistent evidence and testimony of this troublesome past and current behavior, I accept that the Tenant has likely engaged in unpredictable behaviours that would have significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health or safety or a lawful right or interests of the Landlord or another occupant, and that there is likely a genuine concern for the ongoing safety of the other residents of the property.

Under these circumstances described, I find that it would be unreasonable and unfair for the Landlord to wait for a One 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. As such, I find that the Landlord is entitled to an Order of Possession.

As the Landlord was successful in these claims, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to withhold this amount from the security deposit in satisfaction of the debt awarded.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. Should the Tenant 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: September 14, 2020

Residential Tenancy Branch