



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: ET, FFL

Introduction

In this application, the landlords seek an order under section 56 of the *Residential Tenancy Act* (the “Act”).

The landlords filed an application for dispute resolution on August 11, 2020 and a dispute resolution hearing was held at 9:30 AM on September 17, 2020. The landlord (J.S.) and a witness for the landlord attended the hearing and were given a full opportunity to be heard, present testimony, make submissions, and call witnesses. The tenant did not attend.

The landlord testified that she served the tenant with the Notice of Dispute Resolution Proceeding package by Canada Post registered mail on August 12, 2020 at 12:19 PM. Based on the undisputed testimony of the landlord I find that the tenant was served in accordance with both the Act and the *Rules of Procedure*, under the Act.

I have only reviewed and considered oral and documentary evidence submitted meeting the requirements of the *Rules of Procedure*, to which I was referred, and which was relevant to determining the issue of this application.

Issue

Whether the landlords are entitled to an order under section 56 of the Act.

Background and Evidence

An application for an order ending the tenancy early and an order of possession (section 56 of the Act) was brought by the landlords for the following reasons, as described in their application:

[Tenant's name redacted] and daughter [name redacted] are an immediate threat. They have been hosting noisy parties with many people in the house (illegal drugs being used). They have threatened physical harm to the tenants who live in [address redacted] Ave. They have stolen goods from the tenants on [address redacted]. They are damaging our property. We know they have broken: the doorbell, a window and said they punched 7 holes in the walls. [...]

The landlord testified that on July 11, 2020, a guest of the tenant drew a weapon on the property on a girl who resides on that property. (The tenant's rental unit is one side of a duplex, on which other live other tenants.) A guest of the tenant tried to hurt an individual who resides in the other duplex. Another incident not long after involved the tenant or a guest of the tenant in possession of a taser. Also, on that same date, July 11, 2020, the tenant or their guest starting spitting on the neighbouring duplex.

On July 25, 2020, the tenant's daughter (who resides with the tenant) threatened to kick down the neighbour's door and harm the neighbour's family.

On August 7 or shortly thereafter, there was a police raid (one of three raids on the tenant's house) at the rental unit. The morning after the raid, the tenant stole \$120 worth of jerrycans from the neighbour, along with some other items; the witness testified to this theft. More alarming is an incident that occurred on August 16, 2020: the tenant wiped human blood on the railing of the neighbour's railing. This occurred right after the tenant found out that the neighbour was immunocompromised. The witness provided testimony on this point.

On August 23, 2020, the tenant smashed a bunch of glass on the rental unit's front steps, resulting in a 4-foot diameter of broken glass, which resulted in the neighbour's child getting cut.

In summary, the landlord gave evidence that there have been a total of 22 police calls to the rental unit since January 2020; 13 of those have been in the last 3 months. A document was submitted into evidence which listed many of these calls and the corresponding police file numbers.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 56(1) of the Act permits a landlord to 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, and (b) granting the landlord an order of possession in respect of the rental unit. In order for me to grant an order under section 56(1) of the Act, however, I must be satisfied that

- (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.

In this case, based on the landlord's and witness's evidence, I must conclude that the tenant or her daughter (who resides with the tenant) has (1) significantly interfered with or unreasonably disturbed another occupant of the residential property, (2) seriously jeopardized the health and safety and of a lawful right of another occupant, and (3) engaged in illegal activity (that is, the drawing of weapons, the threats of physical harm) 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. Further, I find that it would be unreasonable and unfair to both the landlords and the other occupants of the residential property to wait for a notice to end the tenancy under section 47. The ongoing acts of violence, threats of violence, theft, and so forth, are at the highest levels of egregious behavior, and as such this tenancy must not continue.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving their application for an order under section 56 of the Act. I thus order that the tenancy ends immediately and that an order of possession is to be issued in conjunction with this Decision.

As the landlords were successful in their application, I grant them a \$100.00 monetary order for the filing fee. This order is issued in conjunction with this Decision.

Conclusion

PURSUANT TO SECTION 56(1) OF THE ACT, I HEREBY

- 1. order that the tenancy is to end effective immediately on September 17, 2020; and,**
- 2. grant the landlords an order of possession in respect of the rental unit.**

The order of possession must be served on the tenant and the order is effective two (2) days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

I grant the landlords a monetary order in the amount of \$100.00, which must be served on the tenant. Should the tenant fail to pay the landlords the amount owed, the landlords may file, and enforce, the order in the Provincial Court of British Columbia.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: September 17, 2020

Residential Tenancy Branch