



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFT

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 from the tenants pursuant to section 72.

The tenants did not attend this hearing. The landlord VW attended, confirmed they represented both named applicants and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that he served the tenants with the application for dispute resolution and evidence on September 24, 2020 by posting on the rental unit door in the presence of a witness. Based on the undisputed evidence of the landlord I find the tenants are deemed served with the landlord's materials on September 27, 2020, three days after posting in accordance with sections 88, 89 and 90 of the Act.

Issue(s) to be Decided

Are the landlords entitled to an early end to this tenancy and an Order of Possession?
Are the landlords entitled to recover the filing fee from the tenants?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This tenancy began in December, 2019. A security deposit of \$600.00 was collected at the start of the tenancy and is still held by the landlord.

The landlord testified that the tenants or persons permitted on the property by the tenants have caused extraordinary damage to the rental unit by taking a sledgehammer to destroy the front door and walls, spray painting and tagging walls and the exterior of the building, destroying windows and generally leaving the rental property in a state of disarray and disrepair.

In addition the landlord testified that the tenants or persons permitted on the property by the tenants have seriously jeopardized the health and safety of the landlord by engaging in hostile altercations, threatening bodily harm and chasing them off of the property brandishing weapons.

The landlord submitted into documentary evidence multiple photographs of the rental property showing the damage as well as witness statements from third parties describing the conduct of the occupants of the property and their impact on the condition of 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.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

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.

I find that the landlord has provided sufficient evidence to show that the tenants have both caused extraordinary damage to the residential property and that they have seriously jeopardized the health or safety or a lawful right or interests of the landlord. I find the multiple photographs submitted into evidence to be sufficient to show that the residential property is in a state of disrepair that would properly be characterized as extraordinary damage. I find that the act of threatening the landlord, attempting to instigate fights and brandishing weapons to be actions that seriously jeopardize health and safety. I accept the undisputed evidence of the landlord, supported in the witness statements submitted, that the tenants and their guests' behaviour have been threatening, hostile, and dangerous.

I find that the landlord has shown through their documentary and testimonial evidence that the tenants and those allowed on the property by the tenants behaviour has been characterized by a continuing pattern of dangerous and aggressive conduct. I accept the landlord's evidence that the occupants of the rental property continue to engage in aggressive behaviour and vandalizes the building. I find that under the circumstances it would be unreasonable to the landlord to wait for a notice to end the tenancy to take effect.

Accordingly, I issue an Order of Possession to the landlord pursuant to section 56 of the *Act*.

As the landlord's application was successful the landlord is also entitled to recover their filing fee from the tenants. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenants' security deposit in full satisfaction of the monetary award issued in the landlord's favour

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The security deposit for this tenancy is reduced by \$100.00 from \$600.00 to \$500.00.

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: October 20, 2020

Residential Tenancy Branch