



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Landlords under the Residential Tenancy Act (the Act), seeking:

- An early end to the tenancy pursuant to section 56 of the Act; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Landlords, who provided affirmed testimony. Neither the Tenants nor an agent acting on their behalf attended. The Landlords were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) state that respondents must be served with a copy of the Application and Notice of Hearing. As neither the Tenants nor an agent acting on their behalf attended the hearing, I confirmed service of these documents as explained below.

The Landlords testified that their documentary evidence and the Notice of Dispute Resolution Proceeding Package, including a copy of the Application and the Notice of Hearing, were individually served on each of the Tenants by posting copies for each of them to the door of the rental unit on September 18, 2020, one day after the Notice of Dispute Resolution Proceeding Package became available to them from the Residential Tenancy Branch (the Branch). The Landlords provided two witnessed and signed proof of service documents and photographs showing the packages taped to the door of the rental unit in support of their testimony. As a result, I find that the Tenants were deemed served with the above noted documents in accordance with the Act and the Rules of Procedure on September 21, 2020, three days after they were posted to the

door of the rental unit. Pursuant to rule 7.3 of the Rules of Procedure, the hearing therefore proceeded as scheduled despite the absence of the Tenants or an agent acting on their behalf.

Although I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure, I refer only to the relevant and determinative facts, evidence and issues in this decision.

At the request of the Landlords, copies of the decision and any orders issued in their favor will be emailed to them at the email address provided in the Application.

Issue(s) to be Decided

Are the Landlords entitled to an Order of Possession for the rental unit pursuant to section 56 of the Act?

Are the Landlords entitled to recovery of the filing fee?

Background and Evidence

The tenancy agreement in the documentary evidence before me, signed on August 10, 2020, states that the month to month (periodic) tenancy commenced on August 10, 2020, that rent in the amount of \$1,250.00 is due on the 30th day of each month, and that a security deposit in the amount of \$625.00 was to be paid. During the hearing the Landlords stated that these are the correct terms for the tenancy agreement and that the \$625.00 security deposit was paid and is still held in trust by them.

The Landlords stated that on September 5, 2020, they attended the rental unit to collect rent and the Tenant D.D. threatened their lives and the lives of their child, threatened them with a possible firearm, and threatened to burn down the home. The Landlords stated that the police were called, and a Canada wide warrant was issued for the Tenant's arrest. In support of this testimony the Landlords provided a police file number and a copy of the RCMP member's card with the file number written on it. The Landlords stated that although they have made an FOI request for the incident report, it has not yet been received as it can take upwards of 30 days.

As a result of the threats uttered by the Tenant D.D., the Landlords stated that they fear for their safety, the safety of their child, as well as the safety of their property and are therefore seeking an early end to the tenancy pursuant to section 56 of the Act. The

Landlord stated that although the Tenants recently vacated the rental unit and removed all of their possessions, they are refusing to return the keys. As a result, the Landlords stated that they are still seeking an Order of Possession for the rental unit so that they may change the locks.

No one appeared at the hearing on behalf of the Tenants to provide any documentary evidence or testimony for my consideration despite my earlier finding in this decision that the Tenants were deemed served with a copy of the Application, the Notice of Hearing, and all of the documentary evidence before me from the Landlords in accordance with the Act and the Rules of Procedure on September 21, 2020.

Analysis

Section 56 of the Act states that a tenancy may be ended early by a landlord without the need to serve a notice to end tenancy on the tenant if an arbitrator is 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 interest 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; or
- caused extraordinary damage to the residential property.

Section 56 of the Act also requires that the arbitrator be satisfied that 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.

Based on the documentary evidence before me and the affirmed and uncontested testimony of the Landlords, I am satisfied that a tenancy under the Act exists, and that the Tenant D.D. has:

- 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 interest 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; and
- 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.

Given the serious risk posed to the Landlords, the property, and other occupants of the property by the Tenant's behaviour, I am also satisfied on a balance of probabilities that it would be unreasonable, or unfair to the Landlords 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.

Based on the above and pursuant to section 56 of the Act, I therefore grant the Landlords an Order of Possession for the rental unit effective two days after service on the Tenants. As the Landlord's were successful in their Application, and pursuant to section 72 of the Act, I also grant them authority to retain \$100.00 from the Tenants' security deposit for recovery of the filing fee. The balance of the security deposit is to be dealt with in accordance with the Act.

Conclusion

Pursuant to section 56 of the Act, I grant an Order of Possession to the Landlords effective **two (2) days after service of this Order** on the Tenants. The Landlords are provided with this Order in the above terms and the Tenants must be served with this Order as soon as possible. Should the Tenants fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court. The Tenants are cautioned that the costs of such enforcement are recoverable from them by the Landlords.

Pursuant to sections 72(1) and 72(b) of the Act, I grant the Landlords authority to withhold \$100.00 from the security deposit for recovery of the filing fee.

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