



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

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.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenant confirmed receipt of the landlord's application and evidence package. In accordance with sections 88 and 89 of the *Act*, I find the tenant duly served with the landlord's Application and evidence package. The tenant did not submit any written evidence for this hearing.

Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below

The landlord testified that they are seeking an early end of this tenancy as the tenant has caused extraordinary damage to the rental unit, and the tenant, or a person permitted on the residential property by the tenant, has jeopardized the health and safety and lawful right of the tenant who resides in the lower suite of the home.

The landlord submitted photographs to support the condition of the home before, and during the tenancy. The landlord testified that the tenant has caused extraordinary damage to home, which includes extensive damage to the walls and front door caused by the tenant and her partner at the time. The landlord submitted photos taken during inspections which show graffiti or artwork drawn onto the walls, as well as holes in several walls.

The landlord also called the lower tenant as a witness in the hearing, who confirmed that he has experienced two break-ins, which he attributes to the tenant or her guests. The witness described two incidents of break and enter, one which took place while he was home. The witness testified that he had awoken to find the tenant's boyfriend in his suite without his permission or knowledge. The witness testified that the tenant's boyfriend was attempting to commit theft of his belongings, including a laptop. In cross examination, the witness confirmed that no charges had been laid. The witness testified that the tenant and her guests have continued to engage in disturbing behaviour that involves frequent visits by the police.

The tenant disputes that she has given permission for additional occupants to stay in her rental unit, but does not dispute that her partner at the time had kicked in the door, and caused damage to the walls. The tenant testified that this damage was caused a substantial time ago at the end of 2018, and the landlord is only seeking the end of the tenancy now. The tenant disputes the accuracy of the before and after photos, stating that no move-in inspection was completed. The landlord disputes this claim, stating that an inspection was completed at the beginning of the tenancy. The tenant does not dispute that she had drawn on the walls, but testified that the markings were not permanent, and can be removed.

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. 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.

Based on the evidence and sworn testimony before me, I find that sufficient evidence has been provided to warrant an end to this tenancy for several of the reasons outlined in section 56, as outlined above. Although I accept the tenant's testimony that the damage was caused some time ago, I find the escalating nature of the incidents, combined with the seriousness and frequency of the events described, meet the criteria for the early end of this tenancy.

I find that the tenant has seriously jeopardized the health or safety or a lawful right or interests of the other tenant who lives in the other suite of the home. I find the testimony of the witness to be forthright and credible, and I find it undisputed that the party whom the witness found in his home was someone who the witness did not invite or give permission to be in his home, and was someone acquainted with the tenant. Although charges were not laid in relation to this incident, I find that the incident is still sufficiently serious in nature to warrant the early termination of this tenancy, especially in conjunction with, and in consideration of past events that have taken place during this tenancy. I find that the incidents, alone, may not justify the termination of this tenancy under section 56, but in consideration of the fact that these incidents have taken place since 2018, and continue to occur, leads me to believe that the continuation of this tenancy would infringe on the rights of the landlord and other tenant in this home.

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord 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. On this point, I find that the reasons cited by the landlord for circumventing the standard process for ending a tenancy for cause meet the test required to end this tenancy early as this matter pertains the immediate safety of another tenant in this home. Although the tenant testified that some of the damage took place some time ago, the landlord provided evidence to support that the tenant, or her guests, continue to engage in behaviour that jeopardizes the lawful right of the landlord and other tenant.

I find that the tenant has not taken responsibility for the behaviour of her guests, which is quite worrisome. I find the fact that the witness has experienced at least one incident where he had discovered an uninvited party in his home, and whom was acquainted with the tenant, highlights the potential volatility that the landlord and other tenant may face if this tenancy continues, and the potential for further incidents of similar or more serious nature in this home.

Under these circumstances, I find that it would be unreasonable and unfair to the landlord to wait for a 1 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. I issue a two day Order of Possession to the landlord.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) 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: November 3, 2020

Residential Tenancy Branch