



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ET, FFL

Introduction

The landlord seeks an order to end the tenancy, and for an order of possession, pursuant to section 56 of the *Residential Tenancy Act* ("Act"). In addition, he also seeks recovery of the filing fee under section 72 of the Act.

The landlord filed an application for dispute resolution on October 8, 2020 and a hearing was held on November 5, 2020 at 9:30 AM. The landlord and his witness attended the hearing and were given a full opportunity to be heard, present affirmed testimony, make submissions, and call witnesses.

At no point during the 15-minute-long hearing did the tenant dial-in to the hearing. Based on a review of the file it appears that the tenant was served with the Notice of Dispute Resolution Proceeding package ("Notice") on or about October 19, 2020 (after there was some delay in the Residential Tenancy Branch sending the Notice to the landlord). The tenant contacted the Branch on October 19 and obtained the hearing date, time, and access code. In addition, the tenant submitted several pieces of documentary and video evidence on October 28, 2020. Based on this evidence I find that the tenant was served with the Notice and was fully aware of the hearing.

Issues

1. Is the landlord entitled to an order under section 56 of the Act?
2. Is the landlord entitled to recovery of the filing fee under section 72 of the Act?

Background and Evidence

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 issues of this application. Only relevant evidence necessary to explain my decision is reproduced below.

This tenancy began on April 1, 2020 and the tenant is the current tenant. Monthly rent is \$2,250.00, due on the first of the month. The tenant paid a security deposit of \$1,125.00 and a pet damage deposit of \$550.00. A copy of a written tenancy agreement was submitted into evidence, along with an addendum to that agreement.

In respect of the landlord's application, the following description was provided in the application (reproduced as written):

Tenant and her new boyfriend threatened me and said we know where you live and drove by my house. my family is in fear as the boyfriend has a extensive criminal history. refuse to pay rent and refuses to acknowledge the multiple notices on door. Said we are not moving and i cant do anything about it. Continued to kick closet door which broke. Very dangerous people and situation. would appreciate your assistance to expedite the order please.

The landlord provided a written submission, which he affirmed as being a truthful recollection and summary of the events of October 7, 2020, which resulted in his making this application. A portion of this submission is reproduced below, and which I have considered as relevant evidence (reproduced as written):

On October 7th [C] (my other tenant) and I went to the house. Upon arriving a male came out of a white ford focus and approached us saying we are harassing his new girlfriend. I said I am the landlord and I have a property inspection booked. He continued to walk inside the home where I stood in the entry way. He made threatening gestures as he had a weapon and wanted to fight [C] and I by saying let's do this man, and was really close to my face. He stated its ok I know where you live ill take care of you. [The tenant] was laying in bed as she apparently had an abortion he said and she's not to be bothered. [C] and I just left as this guy was not letting us do any inspections.

I went home dropped [C] off and went about my business. A half hour or so later [C] called me said [the tenant] and her Boyfriend just drove by the house. I immediately went on my security cameras and downloaded the video for evidence. [The tenant] and her boyfriend have made threats against me and my family. A hour later I got a call from a person who I knew few years ago and he said that [JL] called him asking who I was. He said that [JL] the boyfriend is a bad dude and not to escalate in any manner as he will do something. After that call I immediately made a report with the Abbotsford Police so they have it on file. Later that night I went on the government site to check if he had any criminal

history. It was a page and a half long. Uttering threats, failure to appear, running from police, drugs, its all public knowledge.

The landlord's witness, C, also provided a letter into evidence, which he affirmed during the hearing as being a truthful and accurate summary of the events of October 7, 2020. The content of C's written submission largely reflects the same version of events as described by the landlord.

In addition, the landlord submitted a video showing the tenant and her boyfriend driving by the landlord's house within an hour after the boyfriend threatened the landlord and his other tenant. For the record, it should be noted that the reason for the landlord visiting was, among other things, to attempt to collect rent.

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), 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, there is undisputed evidence, both oral, written, and video, proving that the tenant's boyfriend threatened to harm the landlord and, indirectly, his family. The tenant's boyfriend and the tenant further intimidated the landlord and his family by driving by the landlord's house. There is, in my mind, absolutely no legal justification for either the tenant's or her boyfriend's behavior. The tenant's and the tenant's boyfriend's actions have, I find, seriously jeopardized the health, safety, and lawful right and interest of the landlord and his other tenant. Further, given the seriousness of the behavior, it would I find be unreasonable and unfair to the landlord to have to wait for a notice to end the tenancy under section 47 of the Act.

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 landlord has met the onus of proving his claim for an order under section 56 of the Act.

Therefore, I hereby order that the tenancy is ended effective immediately. Further, the landlord is granted an order of possession, which must be served on the tenant and which is effective two (2) days after service.

Last, section 72(1) of the Act permits an arbitrator to order payment of a fee under section 59(2)(c) by one party in a dispute to another party. As the landlord was successful in his application, I award him \$100.00 for the application filing fee. Further, as the tenancy has now ended, the landlord is authorized under section 38(4)(b) of the Act to retain \$100.00 of the tenant's security deposit in full satisfaction of this award.

Conclusion

I grant the landlord's application.

I HEREBY:

- 1. ORDER that the tenancy is ended effective immediately; and**
- 2. GRANT the landlord an order of possession, which must be served on the tenant and which is effective two (2) days from the date of service.**

Should the tenant refuse to comply with this order, the landlord may file and enforce the order in the Supreme Court of British Columbia.

This decision is final and binding, and it is made on authority delegated to me under section 9.1(1) of the Act.

Dated: November 5, 2020

Residential Tenancy Branch