



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1109898 BC LTD
and [tenant name suppressed to protect privacy]

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.

PW ("landlord") represented the landlord in this hearing. While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 9:40 a.m. to enable the tenant to participate in this scheduled hearing for 9:30 a.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was served by way of registered mail on November 27, 2020. The landlord provided the tracking information in their evidentiary materials. In accordance with sections 88, 89, and 90 of the *Act*, I find that the tenant deemed served with the landlord's application and evidence package on December 2, 2020, 5 days after mailing. 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.

This month-to-month tenancy began on June 1, 2020, with monthly rent set at \$375.00, payable on the first of the month. The landlord testified that the tenant did not pay a security deposit for this tenancy.

The landlord served the tenant with a 10 Day Notice for Unpaid Rent on September 30, 2020. Following the issuance of that 10 Day Notice the tenant or her guests damaged several doors to other rental units in the building on November 7, 2020. The landlord testified that the tenant and her guests would participate in illegal activity on the property, and has engaged in disputes with the building manager and security guard. The landlord is seeking the early end of this tenancy due to the extensive damage caused by the tenant and the significant risk the tenant poses to the staff, landlord's property, and other tenants in the building.

Analysis

The landlord, in their application, requested an Order of Possession on the grounds that the tenant has failed to pay rent as required, in addition to several incidents that have taken place during this tenancy that involve the tenant and other persons that the tenant has allowed on the property.

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 of the *Act* for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56 of the *Act*, I need to be satisfied that the tenants 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.

The reasons cited in the landlord's application would need to be supported by sworn testimony and/or written, photographic or video evidence in order to qualify for the first part of section 55 of the *Act*. The landlord provided sworn testimony, as well as submitted in evidence a written statement, photographs, a police file number, as well as documented proof of the landlord's attempt to end this tenancy by way of a 10 Day Notice for Unpaid Rent.

The landlord, in their application, is attempting to obtain an early end to tenancy as they feel that the tenant has engaged in repeated incidents that have caused the landlord and neighbouring tenants and occupants concern.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered. In this case, I find that the landlord's application falls well short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

Although the landlord testified that the tenant was served with a 10 Day Notice to End Tenancy, the landlord did not make an application for an Order of Possession pursuant to that 10 Day Notice. Despite the landlord's concerns about the tenant's behaviour, the landlord has not issued the tenant any 1 Month Notices to End Tenancy for Cause. The landlord's failure to pursue an Order of Possession pursuant to a 10 Day Notice or a 1 Month Notice does not automatically qualify them to apply under section 56 of the *Act*. Although the landlord has provided supporting evidence to demonstrate that the police have attended to deal with issues caused by the tenant or her guests, I am not satisfied that the landlord had provided sufficient evidence to support that the tenant poses an immediate threat to the landlord or other tenants on the property. I find that over a month has passed since the November 7, 2020 incident, but the landlord has not served the tenant with any 1 Month Notices for Cause. I am not satisfied that the landlord has

provided sufficient evidence to support that the tenant or her guests pose an immediate threat.

Although I am sympathetic to the landlord about the concerns that have been raised as part of their application, I find that the landlord failed to provide sufficient and compelling evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause to be unreasonable or unfair. For these reasons, I dismiss the landlord's application for an early end to this tenancy.

Conclusion

I dismiss the landlord's application without leave to reapply. This tenancy continues until ended in accordance with the *Act*.

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: December 22, 2020

Residential Tenancy Branch