



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order to end the tenancy and obtain an order of possession, and to recover the cost of the filing fee.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution, Notice of Hearing and evidence were posted to the door of the rental unit, which were stapled behind the proof of service. A photograph was provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served three days later. I find that the tenant has been duly served in accordance with the Act.

Issue to be Decided

Is the landlord entitled to end the tenancy early and obtain an order of possession?

Background and Evidence

The tenancy began October 2018. Rent in the amount of \$1,050.00 was payable on the first of each month.

The landlord testified the tenant has been unreasonable disturbing the other occupant by yelling and screaming. Filed in evidence is an audio recording which support that the tenant is unreasonably disturbing another tenant.

The landlord testified that these disturbances have continued even after they have warned the tenant several times.

The landlord testified that on December 6, 2020, the tenant was again causing an unreasonable disturbance and damage was cause to the rental unit, a broken window and door. The landlord stated that they police attended the property and the tenant was placed in handcuff and removed from the property.

The landlord testified that on December 12, 2020, that they were informed that the tenant had threatened the neighbour with violence and the police again were called.

The landlord testified that on December 12 and 13, 2020, they received multiple abusive text message from the tenant. The landlord stated in those text messages the tenant indicated they would vacate the premise by January 6, 2021. The landlord stated that they do not believe the tenant will vacate.

Filed in evidence is an audio recording which support that the tenant is unreasonably disturbing another tenant. Filed in evidence are text messages of complaints, which support the landlord's application to end the tenancy.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or
 - 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 rental unit or residential property;
- b) And 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 to take effect.

I am satisfied, based on the undisputed testimony and evidence provided by the landlord that the tenant has unreasonably disturbed another occupant. The audio recording, which was taken from another rental unit, supports the tenant was yelling and screaming. This is not acceptable behaviour and is unreasonable disturbance.

On December 6, 2020, the police attend the property due to another unreasonable disturbance and property damage was found. I am satisfied that it would be unfair and unreasonable to the landlord and the other occupants of the premise to have to wait for a notice to end the tenancy under section 47 to take effect.

I find the landlords are entitled to an order of possession, pursuant to **section 56** of the Act, effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file, the order with the Supreme Court of British Columbia and be enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

As the landlord was successful with their application, I find the landlord is entitled to recover the cost of the filing fee in the amount of \$100.00 from the tenant. Should this amount remain unpaid at the end of the tenancy, I authorize the landlord to keep this amount from the security deposit, if one was paid.

Conclusion

The landlord's application to end the tenancy early and obtain an order of possession is granted. The landlord is granted a monetary order to recover the cost 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: December 22, 2020

Residential Tenancy Branch