



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0915303 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession, and to recover the filing fee from the Tenant.

The Landlord attended the hearing and provided testimony. However, the Tenant did not appear. The Landlord stated that he posted the Notice of Hearing, and evidence, to the Tenant's front door on January 13, 2021. Pursuant to section 89 and 90 of the Act, I find the Tenant is deemed to have received this package on January 16, 2021, the third day after it was posted.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

The Landlord stated that they are concerned that the Tenant is dealing and trafficking drugs, and potentially guns out of the apartment, and that he is placing the Landlord and

other occupants of the building at risk by living there. The Landlord stated that the Tenant has guests over who appear to be affiliated with criminal activity.

The Landlord stated that the Tenant is somewhat “nocturnal” and he is up throughout the night, with friends, and he disturbs others living nearby in the building. The Landlord also stated that the Tenant has a pit bull and lets it defecate in inappropriate areas. The Landlord stated that the other occupants of the building are scared of him, as they believe he is linked with organized crime.

The Landlord stated that sometime in September 2020, the Tenant’s guest crashed the Tenant’s car into another car in the parkade of the building. The Landlord believes the Tenant’s guest fell asleep at the wheel.

The Landlord explained that on November 17, 2020, the police broke his front door in, and raided the apartment. The Landlord stated that this raid was part of a large multi-jurisdictional drug bust where millions in dollars of drugs were confiscated, along with guns. The Landlord stated that Tenant is still living in the rental unit, and is not in jail, although the Landlord suggested that some arrests were made as part of the overall multi-jurisdictional crime bust.

The Landlord stated that the Tenant has not threatened anyone in the building, but many Tenants in the building are scared of him, given the raid that happened last year. The Landlord stated that the Tenant is often personable and approachable, but the Landlord believes the Tenant has a dangerous side to him.

The Landlord provided some documentary evidence, which includes photos of the damage to the door when the police entered the unit last November 2020. Part of this evidence included some emails he has had with others trying to obtain information directly linking the Tenant, any warrants/arrests, and the rental unit. The Landlord also provided an email from local police which acknowledges the door damage, but the police refused to give any information regarding the Tenant or the incident.

The Landlord also provided copies of emails from others in the building complaining of noise. Further, the Landlord provided more emails he has had with other strata members in the building along with a link to an article about the drug seizure. The Landlord did not provide any copies of the articles or further information linking the Tenant to the criminal/drug activity. The Landlord stated that the Tenant has a criminal history in Alberta.

The Landlord stated that he also issued a 1-month Notice to end tenancy for cause on November 27, 2020. However, he stated he has not filed for an order of possession based on that Notice yet. The Landlord also provided a copy of a 10 Day Notice to End Tenancy for unpaid rent, which was issued on December 3, 2020.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; 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 have carefully considered the evidence before me. With respect to the issue regarding the noise complaints from other Tenants in the building, I do not find that issue is sufficiently serious in nature to warrant an early end to the tenancy. Although it may speak to grounds for a 1-Month Notice for Cause, I do not find this issue warrants an end to the tenancy under section 56 of the Act.

With respect to the issue where the Tenant's guest crashed a car in the parkade of the building, I note this happened several months ago, and I do not find it has been sufficiently demonstrated that the incident with the car in the parking lot was such that it posed, or poses, an immediate and severe risk to people or property, nor does it appear to be an ongoing issue. It appears the issue with the vehicle was a one-time incident with an unknown cause.

With respect to the Landlord's allegations of criminal activity, I have considered the evidence and testimony presented by the Landlord. I accept that there was a multi-jurisdictional police matter, which led the police to raid this rental unit on or around November 17, 2020. However, I note there is little, if any, direct evidence linking the Tenant, or the Tenant's guests, to the criminal activity. The police provided no information in their email to the Landlord, and the Landlord only presented a link to a news article about the raid. No copy of the article was provided.

The Landlord did not present any further documentary evidence showing specific details of what occurred, or how he could know, that it is more likely than not that it was the Tenant or his guests that are responsible for the issues with police.

Based on the evidence provided, it is not clear what the Tenant's involvement was, and how he is responsible for the police raid a couple of months ago. There is an absence of direct evidence regarding this incident. I note the Landlord specifically stated that the Tenant has not physically threatened anyone in the building at this point. The Landlord's concerns appear to be largely related to his concern over the Tenant's alleged ongoing criminal activity, involvement with drugs and gangs, and to the distress other Tenants are going through due to the events. However, as stated above, I do not find the Landlord has sufficiently established this link between the Tenant, his guests, and the police matters that unfolded. I do not find a link to a news article is sufficient, nor is the fact that the Tenant has previous interactions with the law in Alberta.

I do not find the Landlord has provided sufficient evidence to demonstrate that the tenancy must end early under section 56 of the Act. An early end to tenancy under section 56 of the Act is typically reserved for situations where it is not reasonable for the Landlord to wait for a 1-Month Notice to take effect, and where there is an immediate, severe, and ongoing risk. I dismiss the Landlord's application for an order of possession, as I do not find it meets the criteria for an early end to tenancy, as laid out above.

The Landlord is at liberty to apply for an order of possession based on the 1-Month Notice to End Tenancy he has already issued. I have not made any findings on the merits of the 1-Month Notice issued and my findings in this hearing only related to whether or not there are sufficient grounds to end the tenancy early under section 56 of the Act.

Given the Landlord was not successful in this hearing, I decline to award the recovery of the cost of the filing fee paid to make this application.

Conclusion

The Landlord has not met the burden to prove the tenancy should end early. Therefore, the Landlord's Application is dismissed without leave to re-apply and the tenancy will continue until such time it is ended in accordance with the Act.

The Landlord remains at liberty to apply for an order of possession based on the 1-Month Notice to end tenancy.

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: February 04, 2021

Residential Tenancy Branch