



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET and FFL

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied to end the tenancy early, for an Order of Possession, and to recover the fee for filing this Application for Dispute Resolution.

The Agent for the Landlord stated that the Landlord and the Agent for the Landlord #2 posted the Dispute Resolution Package on the door of the rental unit on January 12, 2021. The Landlord submitted a photograph that corroborates this testimony.

On the basis of the undisputed evidence, I find that the Dispute Resolution Package was served to the Tenant in accordance with section 89(2) of the *Residential Tenancy Act* (*Act*). As the hearing documents were properly served to the Tenant, the hearing proceeded in the absence of the Tenant.

On January 06, 2021 the Landlord submitted evidence to the Residential Tenancy Branch. The Agent for the Landlord stated that this evidence was served to the Tenant with the Dispute Resolution Package. In the absence of evidence to the contrary, I accept that this evidence was served to the Tenant in accordance with section 88 of the *Act*, and it was accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

Issue(s) to be Decided

Is the Landlord is entitled to end this tenancy early; to an Order of Possession on the basis that the tenancy is ending early, pursuant to section 56(1) of the *Act*, and to recover the filing fee pursuant to section 72(1) of the *Act*?

Background and Evidence

The Agent for the Landlord stated that:

- this tenancy began in 2010;
- there have been on-going issues with the tenancy, which are getting worse;
- the Tenant was arrested by the police under the *Mental Health Act* on November 26, 2020;
- one of the occupants of the complex has a young daughter who is afraid of the Tenant;
- neither of the occupant or the young daughter will not use the common laundry room due to their fear of the Tenant;
- on December 17, 2020 the Tenant was served with a One Month Notice to End Tenancy for Cause;
- the One Month Notice to End Tenancy for Cause declared that the rental unit must be vacated by January 17, 2021;
- on December 30, 2020 the Tenant served the Landlord with notice that she was disputing the One Month Notice to End Tenancy for Cause; and
- a hearing has been scheduled for March 19, 2021 to consider the Tenant's application to cancel the One Month Notice to End Tenancy for Cause.

In support of the application to end this tenancy early, the Landlord submitted an email from the occupant of unit #6, in which the author declared, in part:

- Since the Tenant moved into the rental unit over five years ago, he has regularly overheard the Tenant yelling at, screaming at, swearing at, and threatening people within her unit;
- The Tenant's behaviour has become "increasingly irrational" and he fears for his safety and the safety of other occupants;
- He has regularly heard sounds of a struggle/assault;
- He has been disrupted by sounds of objects being smashed and the door being slammed in a manner that jars the entire building;
- "Lesser disturbances" of late night gatherings and the Tenant calling her dog;
- On December 17, 2020 he was awakened by the fire alarm;

- When he investigated the fire alarm, he observed the Tenant throw her cellphone on the floor and rant incessantly;
- He was told the Tenant activated the fire alarm;
- He was told the Tenant has accused him of murdering her family members; and
- In April of 2020 the Tenant directed profanity directly at him.

In support of the application to end this tenancy early, the Landlord submitted text messages sent by the occupant of unit #7 in December of 2020, in which the author declared, in part, that:

- He is not certain that he can “continue to live like this with that woman knocking on my door”;
- At 3:30 a.m. the Tenant was screaming at his door, demanding to be let in;
- The Tenant appears to believe he has kidnapped the Tenant’s family;
- The Tenant has people living with her that are smoking drugs and using the laundry room; and
- The people living with her have a key to the building.

In support of the application to end this tenancy early, the Landlord submitted a letter from the occupant of unit #3, dated November 23, 2020, in which the author declared, in part, that:

- They are ending their tenancy;
- They can no longer live above the Tenant;
- The Tenant is constantly screaming/disturbing the peace; and
- They have found her sitting outside their unit on occasion.

In support of the application to end this tenancy early, the Landlord submitted a letter from the occupants of unit #2, dated December 19, 2020, in which the authors declared, in part, that:

- They have been disturbed by the Tenant since they moved into the unit in February of 2019;
- The Tenant regularly yells “at the top of her lungs”;
- Her comments are delusional, distressing, and she uses profanity;
- They are constantly disrupted by her words and actions;
- The behaviour is becoming worse and they can “not take it anymore”;
- They overheard the police arresting the Tenant “a few weeks ago”, at which time she suspected the police were actors, that there are bugs in the walls, and that the occupants of unit 3 were killing people;

- When the Tenant returned from the hospital, she knocked on the author's door and spoke of murder, the mob, and a camera being installed in her unit;
- They have phoned the police on two occasions since she has "been back";
- On December 16, 2020 the Landlord served the Tenant with notice to end the tenancy;
- The night she received an eviction notice from the Landlord she yelled all evening;
- On December 18, 2020 she was again yelling all evening long and woke the authors at 3:00 a.m. with her shouting;
- Most recently they heard fighting, yelling and furniture being thrown in the Tenant's unit; and the Tenant's behaviours causes a "lot of anxiety".

Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and he may apply for an Order of Possession for the rental unit. Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has 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
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

After considering all of the aforementioned evidence, I am satisfied that the Tenant and/or her guests has significantly interfered with or unreasonably disturbed other occupants of the residential complex.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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.

On the basis of the undisputed evidence, I find that on December 17, 2020 the Tenant was served with notice to end the tenancy pursuant to section 47 of the *Act*; that the Tenant filed an Application for Dispute Resolution to dispute that notice to end tenancy; and that a hearing has been scheduled for March 19, 2021 to consider the Tenant's application to cancel the notice to end tenancy.

On the basis of the evidence submitted by the Landlord, I find it entirely likely that an Arbitrator will dismiss the Tenant's application to end this tenancy after hearing on March 19, 2021. I therefore find it reasonably likely that this tenancy will end, pursuant to section 47 of the *Act*, on, or shortly after, March 19, 2021.

Given the nature of the disturbances being caused by the Tenant and the evidence that suggests the disturbances are escalating, I find it would be unreasonable for the other occupants of the residential complex to endure these types disturbances until March 19, 2021.

In determining that it would be unreasonable for the One Month Notice to End Tenancy for Cause to take effect, I was influenced by:

- The written submission from the occupants of unit #2, who declared that the Tenant's behaviour is becoming worse; that it is causing them anxiety, and they can "not take it anymore";
- The written submission from the occupants of unit #2, who declared that after the Tenant was released from hospital (presumably in late November or early December of 2020) she knocked on their door and spoke of murder, the mob, and a camera being installed in her unit;
- The written submission from the occupants of unit #2, who declared that they have phoned the police on two occasions since she has "been back";

- The written submission from the occupants of unit #2, who declared that after the Landlord served the Tenant with notice to end the tenancy in December of 2020 the Tenant yelled all evening;
- The written submission from the occupants of unit #2, who declared that on December 18, 2020 she was again yelling all evening long and woke the authors at 3:00 a.m. with her shouting;
- The written submission from the occupants of unit #2, who declared that most recently they heard fighting, yelling and furniture being thrown in the Tenant's unit;
- The notice to end the tenancy from the occupant of unit #3, dated November 23, 2020, in which the occupant informed the Landlord they were ending their tenancy as they can not "longer live above the Tenant" and that she is constantly screaming/disturbing the peace;
- The written submission from the occupant of unit #7, who declared that he is not certain that he can "continue to live like this with that woman knocking on my door";
- The written submission from the occupant of unit #7, who declared that at 3:30 a.m. the Tenant was screaming at his door, demanding to be let in (presumably on December 17, 2020);
- The written submission from the occupant of unit #6, who declared that the Tenant's behaviour has become "increasingly irrational" and that he fears for his safety and the safety of other occupants; and
- The Agent for the Landlord's testimony that one of the one of the occupants and her nine-year old daughter will not use the common laundry room due to their fear of the Tenant.

In an attempt to balance the needs of the other occupants with the needs of the Tenant, I find it would be reasonable to grant the Landlord's application to end the tenancy early and to provide him with an Order of Possession that takes effect on February 21, 2021. While I recognize that it may be difficult for the Tenant to find alternate accommodations with three weeks notice, I find it would be equally difficult for the other occupants to endure these disruptions for an extended period of time, particularly if the Tenant becomes agitated as a result of this decision.

I find that the Landlord has established the merits of this Application for Dispute Resolution and that he is entitled to recover the fee for filing the Application for Dispute Resolution.

Conclusion

I grant the Landlord an Order of Possession that is effective at 1:00 p.m. on February 21, 2021. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I grant the Landlord a monetary Order for \$100.00, as compensation for the cost of filing this Application for Dispute Resolution. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: February 01, 2021

Residential Tenancy Branch