



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

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 and
- an authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted for 26 minutes. I kept the teleconference open throughout the hearing and verified the correct call-in numbers were provided to the tenant.

The landlord was represented by their agents KE and CG (the "landlord") who were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with the application for dispute resolution dated Tuesday January 25, 2021 and their evidence in person to the tenant on January 26, 2021. The landlord submitted video and photographic evidence as well as witness statement into evidence as supporting documents. I find the tenant was served in accordance with sections 88, 89 and 71 of the Act.

Amendment:

The landlord requested the address to the unit to be amended to include the description of "Basement Unit" as the house has more than one unit. The tenant lives in the

basement unit. As this amendment can reasonably be expected and pursuant to Rules of Procedures 10.7, I grant the amendment.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?
Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord presented undisputed evidence regarding the following facts:

This fixed term tenancy began on October 20, 2020 with the term ending on November 30, 2021. The rental amount for this unit is \$1350 month. The landlord holds a security deposit of \$650, in trust. The tenant lives in the basement unit of a multi-unit house.

The landlord testified that they seek an early termination of the tenancy and an Order of Possession, because of incidents in which the tenant physically assaulted the landlord's agent CG on December 15, 2020 and for incidents in which the tenant disturbed and terrified four other female residents in other units with aggressive behaviours including making sexually suggestive comments to them.

CG testified that on December 15, 2020 he and a trades person attended the rental unit to fix the furnace. CG testified that the landlord gave proper notice to the tenant that access was required on that date between the hours of 9:00 a.m. to 11:00 a.m. However, when the landlord and the tradesperson showed up at 9:00 on December 15, the tenant refused to allow access and told them to return at 11:00 a.m. As the tenant was given notice as required under the Act, with a date and range of time, and the tradesperson was present, the landlord advised the tenant that access was required then and now, however the tenant declined and closed the door. The landlord waited and continued trying to get the tenant to respond. At 9:08 a.m. the landlord knocked on the door three times and loudly announced that they were coming in to conduct the furnace repairs. The landlord and the tradesperson entered the unit, CG was ahead and as they entered the unit, the tenant "shoved him out and slammed the door on his arm", hurting the CG. The landlord immediately called the police, the police attended and took statements from the contractor and the landlord. The police had to assist in gaining access to the unit and a second trades person had to attend later in the day to conduct the furnace repairs. The police file number is recorded on the cover page of this Decision.

The landlord further testified to incidents involving the other female tenants. The landlord submitted three videos of three different instances as evidence, showing the tenant looking into the suite of an 18-year-old female tenant who lived alone in the

bachelor unit of the rental property. The tenant is first observed looking into through the glass door, later returning with a flashlight and then wiggling the doorknob trying to open the door; the videos are date stamped as January 13, 2021.

The landlord testified that the 18-year-old female gave notice to end her tenancy as she was scared and fearful of the tenant behaviour, comments and sexually charged language towards her.

The landlord added that the tenant also threatened and terrified other tenants in the residential property and testified that other female tenants, in this multiple unit house, have reported being terrified and scared with the tenant's behaviour and excessive use of profanities, yelling, screaming and banging in his own unit at all time including once incident that lasted until 1:49 a.m. The other tenants describe the tenant as "exhibiting bizarre behaviour and being messed up". During the December holidays, one tenant was so scared when she was alone in her unit during one of the tenant's episodes of loud yelling, screaming and banging on the walls, that she locked herself in a room fearing for her safety and called the police. The landlord did not have a police file number for this incident but did submit into evidence, the female tenant's account.

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, based on the evidence and testimony before me, I find that the landlord has established on a balance of probabilities, that it is more likely than not that the tenant has significantly interfered with or unreasonably disturbed other occupants and seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant and that it would be unreasonable, or unfair to the landlord or the other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect.

I find that the landlord has met the burden of proof in this matter and that the landlord is entitled to receive an Order of Possession for this rental unit.

As the landlord was successful in this Application, I grant the landlord the recovery of the \$100.00 filing fee.

I authorize the landlord to retain \$100.00 from the tenant's security deposit in satisfaction of this award.

During this hearing the landlord made me aware of an upcoming hearing between the parties, concerning the tenant's application for cancellation of a one month notice to end tenancy for cause and other monetary issues. As the landlord was successful in this application for an early end of tenancy, I decline to consider the merits of the one month notice for cause. I make no findings of fact or law regarding the upcoming hearing and the monetary issues as those matters are not before me.

Conclusion

The landlord is successful in the Application for an Order of Possession, pursuant to sections 47(5), 55, and 56(1) of the Act.

I grant an Order of Possession to the landlord effective **two days after** service of this Order on the tenant. The landlord is provided with this Order in the above terms and the tenant must be served with this Order as soon as possible.

Should the tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Pursuant to section 72 of the Act, I award the landlord the recovery of the \$100.00 Application filing fee. The landlord is authorized to retain \$100.00 from the tenant's security deposit in satisfaction of this award.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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 09, 2021

Residential Tenancy Branch