



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early and receive an order of possession due to health or safety reasons under section 56 of the Act and to recover the cost of the filing fee.

The landlord attended the teleconference hearing and gave affirmed testimony and was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. The hearing process was explained and an opportunity to ask questions was provided to the agent. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Proceeding dated March 4, 2021 (Notice of Hearing), application and documentary evidence were considered. The landlord testified that the Notice of Hearing, application and documentary evidence were served by registered mail on March 4, 2021. The landlord provided a registered mail tracking number, which has been included on the style of cause for ease of reference. According to the online Canada Post tracking website, the package was mailed on March 4, 2021 as claimed and was delivered on March 9, 2021. Given the above, I find that the tenant was served as of March 9, 2021 as per the Canada Post tracking information.

As the tenant did not attend the hearing, although duly served, I find that this matter is unopposed by the tenant.

Preliminary and Procedural Matter

The landlord confirmed the email addresses for all parties at the outset of the hearing and stated that they understood that the decision would be emailed to the parties. The landlord was also advised that any orders would be emailed to the landlord, which must be served on the tenant.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession under section 56 of the Act for health or safety reasons?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on August 1, 2017. The landlord testified that their agent, JJ, lives next door and that on February 21, 2021, the tenant and their partner assaulted TJ, the daughter of JJ, who lives next door. The landlord presented three colour photos which shows swelling and red marks and scratches on the face of TJ.

In addition, the landlord provided a police file number, which has been included on the style of cause for ease of reference. The landlord testified that the tenant and their partner were arrested for assaulting TJ, and that their next court appearance is scheduled for April 13, 2021. The landlord is seeking to end the tenancy under section 56 of the Act as a result and is seeking to recover the filing fee.

Analysis

Based on the undisputed testimony and undisputed documentary evidence provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord, which includes the landlord's agent's daughter living next door. I find that any assault against the landlord, their agent or a family member of either, is both unreasonable and should not be tolerated whatsoever. Therefore, section 56 of the Act applies and states:

Application for order ending tenancy early

56(1) A landlord may 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 [*landlord's notice: cause*], and
- (b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(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.**

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

[emphasis added]

I am also satisfied that it would be unreasonable and unfair to the landlord or their agent's family to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant and the documentary evidence before me to support that the tenant assaulted the daughter of the landlord's agent. Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service on the tenant. This applies to all occupants of the rental unit. I find the tenancy ended the date of this hearing, **March 16, 2021**, pursuant to section 62(3) of the Act.

Pursuant to sections 67 and 72 of the Act, I grant the landlord \$100.00 for the cost of the filing fee as the landlord's application is fully successful.

Conclusion

The landlord's application is successful.

The tenancy ended this date, March 16, 2021.

The landlord is granted an order of possession effective two (2) days after service on the tenant. This decision will be emailed to the parties. The order of possession and monetary order will be emailed to the landlord for service on the tenant. The order of possession may be enforced through the Supreme Court of British Columbia. The monetary order may be enforced through the Provincial Court, Small Claims Division.

I caution the tenant to never assault a landlord or their agent or a family member of their agent in the future.

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. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: March 16, 2021

Residential Tenancy Branch