



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

The landlords filed an Application for Dispute Resolution on February 22, 2021 seeking an order to end the tenancy on the basis that the tenant poses an immediate and severe risk to the property, other occupants or the landlords. Additionally, they seek reimbursement of the Application filing fee.

The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “*Act*”) on March 25, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord stated that they delivered notice of this dispute resolution to the tenant in person. This was on March 4, 2021, the day after the Notice was finalized at the Residential Tenancy Branch and forwarded to the landlord. The landlord stated they provided a copy of all their evidence to the tenant and the other occupant in the rental unit.

The landlord provided affirmed testimony on how they gave the tenant notice of this hearing. From this, I am satisfied they served the tenant notice of this hearing in a method prescribed by the *Act*.

Preliminary Matter

The landlord named the tenant here in addition to another occupant of the rental unit. The tenant and the other occupant are the source of the reason for the landlord filing

this Application. The landlord referred to the tenant so named on the Application (hereinafter the “tenant”) and described the other occupant as being a subletter.

To be clear, a sublet arrangement exists where the original tenant remains the tenant of the landlord; however, in a sublet the original tenant then grants exclusive occupancy to the sub-tenant. From what the landlord describes here, the third party is an occupant/roommate. There was no sublet agreement in place between the tenant and third party.

My decision in this matter applies to the parties to the agreement. The tenant here is that individual named on the tenancy agreement. That is the same individual named on the landlord’s Application. Any end of tenancy so ordered shall apply to all occupants within the rental unit. Should the landlord wish to establish a separate tenancy agreement with any other occupants, that is a matter for them to attend to outside of this hearing process.

Issue(s) to be Decided

Is the landlord entitled to an order of possession that ends the tenancy for cause and without notice by s. 56 of the *Act*?

Is the landlord entitled to recover the filing fee for this Application pursuant to s. 72 of the *Act*?

Background and Evidence

I have reviewed all oral and written evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section. After taking an oath from the landlord, I gave them the opportunity to speak to the issue. Their oral testimony stands as evidence in this matter.

The landlord confirmed details of the tenancy agreement, a copy of which they provided in the evidence. The tenancy started on March 1, 2020. The rent is \$1,700, and the tenant pays at the end of each month.

The landlord applies for an end of tenancy on an urgent basis, based on “the immediate and severe risk to the rental property, other occupants or the landlord.” This is for an

incident on January 17, 2020 in which the tenant assaulted another tenant in the building. There were other tenants who witnessed this incident and its aftermath, including the landlord who arrived to help deal with the situation. The incident involved ambulance and police, and there was damage to the rental unit. The landlord described the incident as “traumatic.”

The landlord provided photos as evidence. These show damage to the rental unit, and bloodstains at various locations in and around the rental unit.

In the hearing the landlord stated that the tenant made a verbal agreement to leave at the end of May or June. In the hearing, the landlord provided a copy of a mutual agreement they had with the roommate, duly signed on March 22, 2021 for that roommate’s move-out date of April 30, 2021.

Analysis

The *Act* s. 56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 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 tenancy were given under section 47 [*landlords’ notice: cause*], and
 - (b) granting the landlords an order of possession in respect of the rental unit.

This s. 56(2) sets out two criteria. First, the landlords must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the landlords to wait for a set-period Notice to End Tenancy to take effect under a different section of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

- 56(2) . . .
- (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 landlords of the residential property;
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlords or another occupant;
 - (iii) put the landlords’ property at significant risk;

- (iv) engaged in illegal activity that
 - (a) has caused or is likely to cause damage to the landlords' 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 landlords;
- (v) caused extraordinary damage to the residential property . . .

I have considered the evidence of the landlord concerning the conduct of the tenant and the incident in question.

From the landlord's account, I find there is sufficient evidence that shows the tenant and their roommate were the cause of the incident in question. This was an assault, and the landlord provided direct testimony that they observed the party affected and observed the injuries first-hand. I find this is an action that is specified by s. 56(2) above, particularly subsections (a) (i) and (ii). I find it more likely than not that this was an illegal activity, based on the police response and photos of physical evidence.

First, from the evidence I am satisfied that the facts of the situation prove cause. Secondly, I find it unfair for the landlords to wait for a set-period Notice to End Tenancy to take effect. The landlord stated the tenant had agreed to end the tenancy at a mutually agreeable date; however, it is not inconceivable that circumstances may change. I find the evidence presented by the landlord warrants an expedited end to the tenancy. I so grant an Order of Possession in line with this rationale.

I grant a monetary order to the landlord for reimbursement of the Application filing fee.

Conclusion

For the reasons above, I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 72 of the *Act*, I grant the landlord a Monetary Order in the amount of \$100.00, for recovery of the filing fee for this Application. 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 Small Claims Division of the Provincial 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: March 29, 2021

Residential Tenancy Branch