



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wakeside Investments Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an early termination of the tenancy and an Order of Possession pursuant to section 56 of the Act, and to recover the \$100.00 cost of their Application filing fee.

The Tenant and an agent for the Landlord, G.D. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. The Tenant indicated that she had received the Application and the documentary evidence from the Landlord prior to the hearing. The Tenant confirmed that she had not submitted any documentary evidence to the RTB or to the Landlord.

Preliminary and Procedural Matters

At the outset of the hearing, I asked the Parties for the spelling of their names, and the Tenant spelled her name differently than it was spelled in the Application. As a result, I amended the Respondent's name in the Application, pursuant to section 64(3)(c) and Rule 4.2 to correct this spelling mistake.

The Landlord provided his email address in the Application, and the Tenant provided her post office box mailing address in the hearing. The Parties confirmed their understanding that the Decision would be emailed to the Landlord and mailed to the Tenant, with any Orders sent to the appropriate Party in this manner.

The Tenant was approximately seven minutes late calling into the hearing, because she said she was at lunch. The Landlord had called in on time, and we had gone over administrative matters while we waited for the Tenant to call in.

Issue(s) to be Decided

- Is the Landlord entitled to an order of possession based on the early termination of the tenancy in accordance with section 56 of the Act?
- Is the Landlord entitled to recovery of the \$100.00 Application filing fee?

Background and Evidence

The Parties agreed that the tenancy began in this nine-unit apartment building on December 1, 2017, with a current monthly rent of \$475.00, due on the first day of each month. The Parties agreed that the Tenant paid the Landlord a security deposit of \$237.50, and no pet damage deposit. The Agent confirmed that the Landlord still holds the Tenant's security deposit.

In the hearing, the Landlord said the reason he seeks an early termination of the tenancy and an order of possession is: "Well, it's kind of explained in all the letters I got from the other tenants. She's been a problem since day one - threatening people, running up and down the stairs, making noise in the middle of the night - it's disturbing to the other tenants."

In the Application, the Landlord said:

[The Tenant] threatened to cut tenant [C.W.'s] throat, while holding a butcher knife, apartment #4. [C.W.] reported to RCMP and [the Tenant] was charged with uttering threats, Case File [number provided]. [C.W.] has a granddaughter living with her. As per [J.T.], apartment #1, he stated she, [the Tenant], is 'always threatening people'. He stated a former tenant moved because of [the Tenant's] threats to 'push him down the stairs'. [J.T.] stated this behaviour has been going on since [the Tenant] moved in. [B.W.], apartment #5, stated she had to call RCMP 'numerous' times, due to [the Tenant's] yelling and swearing from 12-4

AM, and the tenant swore at her when she asked her to stop. [D.T.], apartment #3, stated that [the Tenant], has 'gone after 2 people with a weapon'. Other tenants' letters state incidents where she was yelling, swearing, and banging furniture.

In the hearing, the Tenant said:

I never ever threatened anybody, and I don't talk to the tenants. I don't threaten anyone I don't even use a knife in my house - bread knife and butter knife only.

I talked to them and they look at me - like why would you tell the Landlord something that I don't do. It's not right for them to blame me for stuff that I didn't do. I never ever threatened anybody with anything.

The Landlord submitted seven letters from other tenants in the nine-unit apartment building. Some of the comments submitted include:

<u>Other Tenant</u>	<u>Comment</u>
W.W.	I don't know what to say about the Lady in number 6, but she seems ok at times. She seems to not take her meds and at times she makes a lot of noise during the early hours of the morning. Yelling, shouting, moving stuff around etc. She's just noisy at times, don't know what to add.
D.W.	She has been loud/rude. I've been here 12 years. She has gone after 2 people with a weapon. There's not much I can say about her. Jan 29/21
Apt. 5	Constantly moving furniture, yelling swearing from 1200 – 400 in the morning
B.W.	Sometimes I hear the lady in Apt 6 upstairs on the balcony swearing and yelling. January 24, 2021
J.J.	Regarding Tenant In Apt #6. [J.J.] in apt#9 says he can sometimes hear her shouting and swearing. January 24, 2021
C.W.	I've had to call police when she threatened to 'cut my throat' while holding a butcher knife. [The Tenant] was charged with uttering threats case file [number provided]. Also she swears and yells and stomps almost every

day. I've had RCMP do welfare checks on her as well.

J.T. In regard to the tenant in unit 6. She is always threatening people when she doesn't take her meds. I know of 1 former tenant who moved because of her threats to push him down the stairs. This goes on, on a regular basis. Been a problem from the first week she moved in. We are all tired of it.

I asked the Tenant why seven other tenants would all write letters about her, if she did not do what they claim she did. The Tenant said: "If they don't like ya, they'll say anything, I guess."

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

According to Rule 6.6, 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. Further, the onus to prove their case is on the person making the claim. I find that the burden of proof in this case is on the Landlord.

In order to establish grounds to end the tenancy early under section 56 of the Act, a landlord must establish that he has cause to end the tenancy. A landlord must also prove that it would be unreasonable or unfair to require the landlord to wait for a notice to end the tenancy for cause to take effect. Having reviewed the testimony and documentary submissions of the Agent, I find that he has met that burden in this case.

I find the Landlord submitted sufficient evidence that the Tenant has threatened other tenants, and that she has caused an unreasonable amount of noise in the early hours of the morning. I find that this behaviour has led others to call the police on the Tenant, and to move out of the building in at least one case.

Due to these conclusions and based on the Act, I find that the Landlord has proven that the Tenant has significantly interfered with and unreasonably disturbed other occupants and the Landlord. I am also satisfied that it would be unreasonable and unfair to the Landlord and other occupants to wait for a One Month Notice to End Tenancy to take effect, as I find without an early end to the tenancy, that other tenants' health and safety is in jeopardy from the Tenant.

I therefore grant the Landlord's Application to end this tenancy early, and in this regard, I award the Landlord with **an Order of Possession, effective two days after service** of this Order on the Tenant, pursuant to section 56 of the Act.

Further, I award the Landlord with recovery of the **\$100.00** Application filing fee pursuant to section 72 of the Act. I authorize the Landlord to deduct \$100.00 from the Tenant's security deposit in complete satisfaction of this award.

Conclusion

The Landlord's Application is successful for an early end to the tenancy, as the Landlord provided sufficient evidence to establish the burden of proof on a balance of probabilities.

The Landlord is also awarded recovery of the \$100.00 Application filing fee from the Tenant, and is authorized to deduct \$100.00 from the Tenant's security deposit in full satisfaction of this award.

I grant the Landlord an **Order of Possession**, which must be served on the Tenant as soon as possible, and which is **effective two days from the date of service on the Tenant**.

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.

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: April 19, 2021

Residential Tenancy Branch