



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

The landlord filed an Application for Dispute Resolution on March 25, 2021 seeking an order to end the tenancy on the basis that the tenants (hereinafter the “tenant”) pose an immediate and severe risk to the property, other occupants or the landlord. Additionally, they applied for 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 April 12, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the hearing; the tenant did not.

The landlord stated they delivered notice of this hearing to the tenant in person on March 30, 2021. They provided a “Proof of Service” document specific to this expedited hearing notice. The tenant signed to show they received this notice – this is a “hand delivery receipt” as provided for on the document.

From what the landlord presents here on notifying the tenant of this hearing, I am satisfied they served the tenant notice of this hearing in a method prescribed by the *Act*.

The tenant did not attend the hearing and did not provide any documentary evidence in advance.

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. That is, I consider only material that is relevant to the landlord's application for an early end of the tenancy. After taking an oath from the landlord, I gave them the opportunity to speak to the issue.

The landlord provided details on the history of the tenant in the unit. There was a previous owner, and this landlord took possession of the unit as the new owner very recently. There was no tenancy agreement in document form; rather, the previous owner informed the landlord that the only "agreement" in place was that the tenant was to pay \$650 per month for rent. Since this landlord took possession, the tenant has not paid rent, neither March nor April 2021.

The landlord applies for an end of tenancy based on the "immediate and severe risk to the rental property, other occupants or the landlord."

They provided documents and photos in addition to their oral testimony to show how the conduct of the tenant constitutes a reason to end the tenancy in an expedited fashion. The evidence includes:

- a letter from the municipality stating that "there were over 60 police files" associated to this address – other complaints made to the municipality involve drug use, stolen property, disturbances involving weapons, and assaults of the prior owner
- the landlord provided one example of a story of an assault that was narrated to them by a resident within the area
- lists of criminal charges against the tenant, those which are available to the public
- statements from other residents in the area giving details on their observations of visitors to the home and statements on the reasons for those visits, as well as their interactions with police on matters of a serious and dangerous nature

- a statement from a previous property manager that describes a previous eviction effort
- a short video that shows a purported drug transaction at the front door of the rental unit.

In the hearing, the landlord described the unit as a split-level house; yet the lower level of the house remains vacant due to their immediate concern of the behaviour exhibited by the tenant here. This involves reasoned concerns for security, safety, and physical well-being. This is based on information they gathered from other neighbourhood residents and the RCMP.

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 s.47 [*landlord' notice: cause*], and
 - (b) granting the landlord an order of possession in respect of the rental unit.

Following this, s. 56(2) sets out two criteria. First, the landlord must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the landlord 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 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' property at significant risk;
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord' 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 . . .

I have considered the evidence of the landlord concerning the conduct of the tenants primarily.

I find there is sufficient evidence to show the tenants have been the cause of several incidents that are those specified by s.56(2) above. On that basis, the evidence presented by the landlord shows a pattern of significant interference with the landlord and their interests. I find the tenants are also engaged in illegal activity that impacts each of the categories listed in (iv)(A) through (C) above. The overriding and primary concern is that of safety and security of the landlord, and the significant risk the tenant is posing to the property.

First, from the evidence I am satisfied that the facts of the situation prove cause. Secondly, I find it unfair for the landlord to wait for a set-period Notice to End Tenancy to take effect. The matters are serious and severe in nature. – I find this merits an expedited end to the tenancy. I so grant an Order of Possession in line with this rationale.

As the landlord were successful in this application, I find they are entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

For the reasons above, I grant an Order of Possession to the landlord 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 s. 72 of the *Act*, I grant the landlord a Monetary Order for the recovery of the filing fee paid 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 s. 9.1(1) of the *Act*.

Dated: April 12, 2021

Residential Tenancy Branch