



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 for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for an order to end the tenancy early and receive an order of possession, and to recover the cost of the filing fee.

An agent for the landlord, HR (agent) and a translator for the agent, JX (translator) attended the teleconference hearing and gave affirmed testimony and were 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 a Dispute Resolution Hearing dated March 18, 2021 (Notice of Hearing), the application and documentary evidence were considered. The agent provided affirmed testimony through their translator that the Notice of Hearing, application and documentary evidence were served on the tenant by registered mail on March 29, 2021. The tenant provided a registered mail tracking number during in evidence which confirms that the name and address on the registered mail package matched the name of the tenant and the address of the rental unit. Documents sent by registered mail are deemed served five days after mailing pursuant to section 90 of the Act. The registered mail tracking number has been included on the style of cause for ease of reference.

According to the Canada Post online registered mail tracking website, a final notice has been left for the tenant to pick up the registered mail package. Based on the above, I find the tenant was duly served on the fifth day after mailing on April 3, 2021, in accordance with the Act. I note that refusal or neglect on the part of the respondent to

accept a registered mail package does not constitute grounds for an Application for Review Consideration under the Act. As the tenant was deemed served and did not attend the hearing, I find that this application to be undisputed by the tenant. I also have considered that the agent stated that the tenant sent a text to the agent on April 7, 2021 referencing this application.

Preliminary and Procedural Matter

The agent confirmed the email addresses for both parties at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. The tenant will be emailed a copy of the decision only.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession?
- Is the landlord entitled to the recovery of the cost of the filing fee?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on May 1, 2020.

The agent stated that they are seeking to end the tenancy early based on the tenant assaulting the agent twice. The first assault was by the boyfriend of the tenant on July 26, 2020 and the second assault was by a friend of the tenant, ZT in October 2020. The agent stated that the ambulance attended and explained that they did not apply earlier as they were not aware that an assault could end the tenancy.

Analysis

Based on the testimony provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant's boyfriend and guest, ZT have seriously jeopardized the health or safety or a lawful right or interest of the landlord agent and has committed an illegal act, assault.

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 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's boyfriend and guest, ZT assaulted the agent of the landlord a total of two times. I find that assault by a tenant or their guest against a landlord agent in a tenancy is unreasonable and unacceptable. 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 on the tenant. I find the tenancy ended the date of this hearing, April 19, 2021 pursuant to section 62(3) of the Act.

As the landlord's application is successful, I grant the landlord **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act.

Conclusion

The landlord's application is successful. The tenancy ended this date, April 19, 2021.

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

The landlord has been granted a monetary order of \$100.00 pursuant to sections 67 and 72 of the Act. This order must be served on the tenant and may be filed in the Provincial Court (Small Claims) 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. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 19, 2021

Residential Tenancy Branch