



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for an Order of Possession and for an early end to the tenancy.

The male Landlord stated that on April 07, 2021 two copies of the Dispute Resolution Package and all evidence submitted to the Residential Tenancy Branch were posted on the door of the rental unit. The Landlord submitted a photograph of envelopes posted on the door of the rental unit. On the basis of this evidence and in the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*.

As the aforementioned documents were served in accordance with the *Act*, the hearing proceeded in the absence of the Tenant and the evidence was accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence and to make relevant submissions. Each participant, with the exception of legal counsel, affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Both Landlords affirmed they would not record any portion of these proceedings. Legal Counsel for the Landlords stated that he understood private recordings were not permitted.

Preliminary Matter

The male Landlord stated that the Respondent with the initials “DM” is a child and that he does not have a tenancy agreement with her.

Legal Counsel for the Landlord applied to amend the Application for Dispute Resolution by removing “DM” as a Respondent in this matter.

As the Landlord does not have a tenancy agreement with “DM”, I find the Application for Dispute Resolution should be amended to remove her as a Respondent. As such any Order issued as a result of these proceedings will not name that party.

Issue(s) to be Decided

Should this tenancy end early and, if so, should the Landlord be granted an Order of Possession?

Background and Evidence

Legal Counsel for the Landlord stated that:

- This tenancy began on January 01, 2021;
- The parties do not have a written tenancy agreement;
- The Tenant agreed to pay rent of \$1,400.00 by the first day of the month;
- The Tenant with the initials “MM” is still residing in the rental unit;
- On March 22, 2021 the RCMP personally served “MM” with a Ten Day Notice to End Tenancy for Unpaid Rent or Utilities;
- The Landlord has applied for an Order of Possession on the basis of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities;
- The application for an Order of Possession on the basis of the Ten Day Notice to End Tenancy for Unpaid Rent or Utilities will be determined at a dispute resolution proceeding sometime in June of 2021;
- There have been approximately 12 noise disturbances since this tenancy began, some of which have resulted in the Landlords calling the police and some of which resulted in the neighbours calling the police;
- The Landlords agreed to forward any of the Tenant’s mail that was delivered to the Landlord’s mailbox, on a daily basis;
- The Tenant mistakenly believed that the Landlords were withholding mail from her;

- On February 24, 2021 the Landlords learned that the Tenant had identified herself to Canada Post as the new owner of the home and arranged to have their post box re-keyed; and
- The Tenant's child was apprehended by the Provincial Government on the morning of March 22, 2021.

The male Landlord stated that:

- On February 15, 2021 the Tenant was screaming and banging on their front door;
- He does not know why the Tenant was upset on this occasion;
- They did not answer the door due to the Tenant's aggressive behaviour;
- The disturbance lasted for several minutes;
- The video evidence of this disturbance was a "shortened version" of the disturbance;
- Their front door was damaged by the Tenant and they can no longer open the door;
- On February 27, 2021 the Tenant was again screaming at their front door;
- They did not answer the door due to the Tenant's aggressive behaviour;
- They heard the Tenant break a fountain at the front entrance;
- The February 15, 2021 and February 27, 2021 incidents were reported to the police;
- On March 22, 2021 the Tenant was yelling and banging loudly on the door that separates her suite from the Landlord's suite;
- The Landlords believed she was trying to break into their home, so they contacted the police;
- At the time of this incident that did not know why the Tenant was banging on their door;
- After the police spoke with the Tenant on March 22, 2021 the police informed the Landlords that the Tenant believed she was responsible for her child being apprehended by the Provincial Government;
- While the police were talking with the Tenant on March 22, 2021, she broke the glass in her entry door;
- On April 15, 2021 the Tenant was again banging loudly on the door separates her suite from the Landlord's suite;
- The Landlords believed she was trying to break into their home, so they contacted the police;

- At the time of this incident that did not know why the Tenant was banging on their door;
- After the police spoke with the Tenant on April 15, 2021 the police informed the Landlords that the Tenant believed the Landlords were playing loud music; and
- They were not playing loud music.

The Landlord submitted a video recording of the incident that occurred on February 15, 2021, in which yelling and very loud banging can be heard.

The Landlord submitted an audio recording of the incident that occurred on March 22, 2021, in which yelling and very loud banging can be heard. In this recording the Tenant threatens to “ruin” the Landlords’ lives.

Analysis

Section 56(1) of the Residential Tenancy Act (Act) stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the Act and the landlord may apply for an Order of Possession for the rental unit.

Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that 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

- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

After considering all of the evidence presented by the Landlord, I am satisfied that the Tenant unreasonably disturbed the Landlords on February 15, 2017, February 27, 2021, and March 22, 2021 when she was banging on their door and yelling. In reaching this conclusion I was heavily influenced by the video/audio recordings that were submitted in evidence. I find that the level of aggression displayed in those recordings would disturb most reasonable individuals.

On the basis of the undisputed evidence, I find that the Tenant caused significant damage to the residential property on the aforementioned dates, when she broke an exterior fountain, broke the glass in the door to the rental unit, and significantly damaged the Landlord's door by banging on it.

On the basis of the undisputed evidence, I find that the Tenant jeopardized a lawful right or interest of the landlord when she contacted Canada Post and arranged to have their post box re-keyed.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

Given the level of aggression displayed by the Tenant, I find it would be unreasonable for the Landlords to have to live near the Tenant on this residential property for any extended period of time. I therefore grant the Landlord an Order of Possession, pursuant to section 56(2)(b) of the *Act*, which is effective two days after it is served upon the Tenant.

Conclusion

I grant the Landlord an Order of Possession that is **effective two days after it is served upon the Tenant**. This Order may be served on the Tenant, filed with 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 20, 2021

Residential Tenancy Branch