



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC QUORUM PROPERTIES
INC and [tenant name suppressed to protect privacy]

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 due to health or safety reasons under section 56 of the Act and to recover the cost of the filing fee.

An agent for the landlord, JE (agent), a witness for the landlord, LS (witness) and the tenant 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.

Neither party raised any concerns regarding the service of documentary evidence and given that both parties confirmed having the opportunity to review evidence served upon them, I find that both parties were sufficiently served.

Preliminary and Procedural Matters

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

In addition, the parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them. If the landlord is entitled to orders, they will be emailed to the landlord only for service on the tenant.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession under section 56 of the Act for health or safety reasons?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

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

The agent stated that on April 7, 2021, while the agent was away at lunch, they returned from lunch to quite a commotion in the rental building. The agent stated that several witnesses reported that the tenant had been banging on the door of unit 108 very loudly. One witness said there was also kicking on the door. The agent stated that they were advised that the tenant has threatened to kill LS in unit 108 and was going back to their unit to get a Taser.

The agent called witness, LS, who was affirmed. The following is a summary with Q representing the question and A representing the answer from the witness:

Q: Tell me what happened on April 7th?

A: I was making lunch around 12:30 p.m. and I heard yelling in the hallway and then I heard a loud bang and my door shook. The bang knocked a picture off our wall and the door moved from the banging. It was [name of tenant] at the door and he said he was going to sue me for telling other people that he was dealing drugs. I told him that he could not sue for me telling the truth and then my wife Linda said to the [name of tenant] that it was her that told others about him dealing drugs. [Name of tenant] then said "well then I am going to kill you and am going to get my Taser" and walked back to his unit. I could not go into hallway as I wasn't wearing enough clothes.

Cross-examination by Tenant:

Q: When you phoned the Abbotsford Police did you tell them about the death threats and the Taser?

A: Yes.

Q: Do you suspected me off being a drug dealer?

A: I don't suspect it, I know it as I have seen you deal drugs off your balcony at least twice.

Q: Have you asked me for drugs?

A: Yes, for my son. Pot. But you didn't give him any and that's fine.

Follow-up by Agent:

Q: How was Linda? Was she scared?

A: She was not scared at the time but was scared afterwards at what [name of tenant] might do, but she is a bulldog and does not back down from anyone.

Q: Did you feel the threats were credible?

A: Yes.

Q: Have you ever witness the tenant being violent before?

A: Yes, I saw him beat on a guy in the parking lot.

[Witnessed excused after no further questions by either party. Name of tenant removed for privacy reasons]

The agent stated that they planned on calling the spouse of LS, Linda as a witness; however, Linda was in hospital the day of the hearing so that was not possible.

The agent referred to four witness letters. I have summarized three of the witness letters as follows:

1. From AD, Unit 107:

On the 7th of April, 2021 me and my bf had heard [first name of tenant] screaming down the hallway and started to bang on [L & L's] door across the hall at #108. He then began to scream in Linda's face as I had come out into the hallway. He was calling her every name in the book. Linda was telling him to leave. I then jumped in and told him to step back and stop getting into Linda's face. He then turned to got to his place still yelling and screaming. Me and my bf followed Linda

and [name of tenant] down to [name of tenant's] place in #106 were he then [name of tenant] proceeded to threaten Linda's life as well as threaten her with a tazar. And lunged into Linda's face. He then went into his place and slammed his door numerous times.

[Reproduced as written except for anonymizing names for privacy reasons]

2. From MO, Unit 107:

ON APRIL 7TH @ 12:30 PM MY GIRLFRIEND A AND I HEARD A MALE SCREAMING DOWN THE HALL APPROACHING HER SUITE. I IMMEDIATELY WENT TO THE DOOR AND LOOKED OUT THE PEEP HOLE. WHILE LOOKING THROUGH I WITNESSED [NAME OF TENANT] FROM #106 KICKING LINDA'S DOOR (#108). [NAME OF LINDA'S HUSBAND] OPENED THE DOOR TELLING [NAME OF TENANT] TO LEAVE AND LINDA THEN CAME TO DOOR. [NAME OF TENANT] THEN CONTINEUD SHOUTING ABOUT LINDA INFORMING JASON OF HIS DRUG DEALING ACTIVITIES AND BEGAN LUNGING INTO LINDAS FACE WHILE SCREAMING EXTREMELY LOUD. A AND I BOTH PROCEEDED INTO THE HALLWAY AND A CALMLY TRIED DIFUSE THE SITUATION BUT WAS UNSUCCESSFUL. [NAME OF TENANT] BEGAN TO THREATEN LINDAS LIFE AND SAID HE WAS GONG TO GET HIS TASER. I THEN FOLLOWED HIM TO HIS SUITE (STAYING A SAFE DISTANCE AWAY TO OBSERVE AND MAKE SURE HE WASN'T GRABBING A WEAPON TO FOLLOW THROUGH WITH HIS THREATS) HE THEN PROCEEDED TO GET EVEN CLOSER TO LINDAS FACE AND CONTINUED TO LUNGE FORWARD TRYING TO SCARE HER. I BELIEVED HE HAD LOST HIS TEMPER ENOUGH TO ASSULT HER SO I COMFRONTED HIM AND STEPPED IN, HE ASKED ME TO FIGHT HIM BUT I KNEW THAT WOULDN'T HELP THE SITUATION SO I REMAINED SILENT AND LET HIM WALK AWAY AS I ESCORTED LINDA BACK TO HER PLACE AND [NAME OF TENANT] SLAMMED HIS DOOR MULTIPLE TIMES. A AND I PROCEEDED TO CHECK ON LINDA TO HELP CALM HER DOWN AND ASSURE HER SHE WAS SAFE.

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3. From KL, Unit 104:

Today at approx. 12:30 pm I heard [name of tenant] from #106 banging/kicking on a door. He was swearing and threatening to kill someone.

I was terrified as this has been going on since [name of tenant] moved to the first floor around November, 2020.

2 plumbers were coming to my suite and saw what was going on in the hallway. I asked them to come in and I locked the door.

The yelling and threats continued for a few more minutes; when [name of tenant] walked away, or left, one plumber stayed in my suite and one went downstairs.

I asked the plumber in my suite to please make [name of agent] aware of what they saw and he said he would.

Due to the fact [name of tenant] has been very loud and threatening to his girlfriend Alice over the last 6 months I thought it was him and her fighting again.

I walked down the hall to #108 to see if Linda and L had heard all the yelling etc. and was made aware it was Linda that [name of tenant] was threatening.

I stayed with Linda and her neighbours Mike and his girlfriend at Linda and L's while L was on the phone with the police.

We discussed in depth the many times we have complained to our manager about [name of tenant].

We waited at the front office for [name of agent] to return from lunch to tell him what had just happened.

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As the fourth letter was from the witness at the hearing, I have not summarized it in this decision.

The tenant's response to the agent was that ever since they moved to the first floor in November 2020, they have been called a drug dealer and the tenant denied doing drugs, claiming it was his my ex-girlfriend was the one involved with drugs. The tenant stated that they were tired of hearing about it so they decided to confront the person who was spreading the rumours and that they banged on the door of 108 which was too hard, the tenant admitted. The tenant also stated that he had a Taser three months ago but when it stopped working, he returned it. The tenant denied threatening anyone or stating that he was going to get his Taser.

The tenant stated that when the police attended, they did not arrest him and that one police officer told him that if there was threats to kill someone or use of a Taser he

would have been arrested. The tenant then confirmed he was on conditions of bail for unrelated charges of Utter Threats, Break and Enter and Sexual Assault. The tenant stated that he could have handled things differently and that even his social worker tells him that he is not the type of person to threaten someone. The tenant stated “the killing threats just blow my mind, she is just a little lady” in reference to Linda. The tenant stated that they applied for the police file under the *Freedom of Information and Protection of Privacy Act* but that it would take over 30 days to get the police report.

Analysis

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

Firstly, I find that it is more likely than not that the tenant threatened to kill Linda on April 7, 2021 based on four separate witness statements, which are all consistent and described the tenant yelling threats against Linda and later getting in her face down the hallway. Although the tenant admits to banging on the door of unit 108 “too hard” I find the tenant is leaving out other crucial details of their actions. In support of this finding are the witness statements, which confirmed that the tenant has been involved with drugs when asked by the tenant, and that the tenant has been seen beating someone up in the parking lot, which I note the tenant did not deny at any point in the hearing.

In addition, I find that the criminal charges that the tenant admitted to during the hearing, although they are not related to this incident are related in terms of “Uttering Threats”, which is what occurred in this incident. Therefore, I prefer the evidence of the agent, witness and the landlord witness statements submitted before me over that of the partial denial of the tenant.

Based on the above, I am satisfied that the tenant has seriously jeopardized the health or safety or a lawful right or interest of another tenant and has committed an illegal act, Utter Threats to Cause Death or Bodily Harm, 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.

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 and the other occupants of the building to wait for a notice to end tenancy under section 47 of the Act. I am satisfied that the tenant threatening to kill Linda and that any such threat is unreasonable in any tenancy. Furthermore, I find that it is more likely than not that the tenant did threaten to get a Taser, as the tenant admitted he owned a Taser and I afford little weight to his claim that he got rid of the Taser three months ago as I don't find the tenant to be credible. 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, May 4, 2021 pursuant to section 62(3) of the Act.

As the application was successful, the landlord is granted a monetary order in the amount of **\$100.00** pursuant to section 72 of the Act. The landlord may deduct that amount from the security deposit or serve and enforce the monetary order, which is the discretion of the landlord.

Conclusion

The landlord's application is fully successful.

The tenancy ended this date, May 4, 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 monetary order will be emailed to the landlord only for service on the tenant, if necessary. Should the landlord require enforcement of the monetary order, the order must be first served on the tenant with a demand for payment letter and may be filed in the Provincial Court (Small Claims) and enforced as an order of that court, or in the alternative, the landlord may also deduct the amount of \$100.00 from the tenant's security deposit, if any.

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: May 4, 2021

Residential Tenancy Branch