



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET and FF

Introduction

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

The Landlord stated that on April 10, 2021 he personally served the Tenant with the Dispute Resolution Package. 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 documents were properly served to the Tenant, the hearing proceeded in the absence of the Tenant.

On April 17, 2021 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was personally served to the Tenant on April 17, 2021. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 88 of the *Act*. As the documents were properly served to the Tenant, the evidence was accepted as evidence for these proceedings.

The Landlord was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The Landlord affirmed that he would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The Landlord was advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. He affirmed he would not record any portion of these proceedings.

Issue(s) to be Decided

Is the Landlord is entitled to end this tenancy early; to an Order of Possession on the basis that the tenancy is ending early, pursuant to section 56(1) of the *Residential Tenancy Act (Act)*; and to recover the filing fee pursuant to section 72(1) of the *Act*?

Background and Evidence

The Landlord stated that:

- This tenancy began in February of 2020;
- On April 06, 2021 he was working in the yard of the residential complex;
- The Tenant kicked the wooden gate leading into the yard,
- The gate broke and pieces of it struck the Landlord, scratching his left hand;
- The Tenant entered the yard and violently pushed the Landlord, leaving bruises on his chest and arm;
- The Landlord injured one of his wrists when he raised his hands in self-defence;
- After pushing the Landlord, the Tenant went into his rental unit and returned with a knife;
- The Tenant held the knife near the Landlord's face and threatened to kill him;
- The Tenant was yelling and cursing during this interaction;
- The Landlord called 911;
- The police attended and no charges were laid;
- His son recorded the interaction but the Landlord was unable to upload that recording due to the size of the file; and
- He went to the hospital after the altercation as he had hurt his back during the incident.

The Landlord submitted photographs of some of the injuries he sustained.

Analysis

Section 56(1) of the *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 he 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.

On the basis of the undisputed testimony of the Landlord, I find that on April 06, 2021 the Tenant injured the Landlord when he pushed him violently and when he kicked a wooden gate. I further find that, on the same date, the Tenant threatened to kill the Landlord while he was holding a knife near the Landlord's face. I find that these actions significantly interfered with and unreasonably disturbed the Landlord.

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 of the *Act* to take effect.

I find that the level of violence displayed by the Tenant on April 06, 2021 is wholly unacceptable and is grounds to end this tenancy early. I find that it would be unreasonable in these circumstances to wait for a notice to end the tenancy under section 47 of the *Act* to take effect. I therefore grant the application to end the tenancy early and I grant the Landlord an Order of Possession.

The Landlord has established the merits of his Application for Dispute Resolution and I grant the application to recover the fee for filing this Application for Dispute Resolution.

Conclusion

Based on these findings 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.

The Landlord has established a monetary claim, in the amount of \$100.00, in compensation for the fee paid to file this Application for Dispute Resolution and I grant the Landlord a monetary Order in that amount. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court and enforced by that Court.

Dated: May 07, 2021

Residential Tenancy Branch