



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an early termination of tenancy and Order of Possession, pursuant to section 56.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 11:11 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. The landlord testified that they are not recording this dispute resolution hearing.

The landlord confirmed their email address for service of this decision and order.

The landlord testified that the tenants were each served with a copy of this application for dispute resolution and evidence via posting on June 25, 2021. The landlord entered into evidence a photograph of the landlord taping two packages to the tenants' door. The landlord entered into evidence a witnessed proof of service document pertaining to tenant K.M. confirming the above. The landlord testified that a witnessed proof of service document pertaining to tenant M.J. was also entered into evidence; however, it was not. I accept the landlord's testimony that both parties were served via posting on

June 25, 2021. Based on the above evidence I find that both tenants were served with the landlord's application for dispute resolution on June 25, 2021 and that service of the above packages was effected on June 28, 2021, three days after posting, pursuant to sections 88 and 90 of the *Act*.

Preliminary Issue- Amendment

The address of the subject rental property on the landlord's application for dispute resolution contained the descriptor "upper". The landlord testified that the subject rental property is a condo and that she chose the descriptor "upper" because the unit is on the second floor and the landlord was confused. Pursuant to section 64 I amend the landlord's application to remove the descriptor "upper" as is not part of the address of the subject rental property.

Issue to be Decided

Is the landlord entitled to an early termination of tenancy and Order of Possession, pursuant to section 56 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of the landlord's submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord provided the following undisputed testimony. This tenancy began on May 1, 2021 and is currently ongoing. Monthly rent in the amount of \$1,400.00 is payable on the first day of each month. A security deposit of \$700.00 was paid by the tenants to the landlord. A tenancy agreement was not entered into evidence, but a signed addendum to the tenancy agreement was provided.

The landlord testified that they are seeking an emergency end to this tenancy due to damage and continued risk of damage to the subject rental property and because of the disturbance the tenants have caused to other tenants of the subject rental building.

The landlord testified that the tenants have vicious fights in the unit and that the police are frequently called. The landlord testified that this is disturbing to the other tenants of the building. The landlord testified that the tenants have also had verbal altercations with other tenants of the subject rental building in the hallways. The landlord entered into evidence an email from the strata dated May 12, 2021 regarding another tenant's complaints about the tenants' loud domestic disputes.

The landlord testified that the tenants severely damaged the front door, making it unsecurable. Photographs of the front door were entered into evidence showing the wood surrounding the lock and doorknob have splintered and buckled as though the door were kicked in.

The landlord testified that the tenants have refused the landlord access to the unit and the landlord is very fearful of the condition of the subject rental property given the loud fights reported by neighbours in which banging and crashing has been heard. The landlord testified that the tenants have refused to grant her entry to inspect the subject rental property. The landlord testified that on one occasion the police were called, and the police informed the caretaker of the subject rental building that the subject rental property was a fire hazard. The landlord entered into evidence an email from the caretaker dated June 17, 2021 which states:

Hi [landlord],

The police were called again this evening regarding a domestic dispute in your unit.

The police told me the place is a fire hazard and is not livable. They were walking over piles of garbage. Stuff was piled to the roof.

I heard from another tenant that they don't have keys to access the building and have been using rocks to keep the doors open.

The police didn't take them away.

The landlord testified that they are afraid that the tenants will continue to damage the subject rental property if the tenants are not evicted. The landlord testified that contrary to the tenancy agreement addendum the tenants smoke in the subject rental property. The landlord testified that they are afraid that the tenants will start a fire.

The landlord testified that tenant M.J. stated that the tenants would move out on June 15, 2021 in an email dated June 5, 2021; however, the tenants did not move out. The June 15, 2021 email was entered into evidence and states:

Hey my phone broke I have new number I'm planning on being out on the 15th hopefully and then it can be all said and done. I use you as a reference please it is very difficult to get into these suites I just got turned down at [another rental property] because they did a earlier mistakes in my life growing up

The landlord testified that they are afraid of tenant M.J. because tenant M.J. sexually intimidated the landlord. The landlord testified that when the landlord attended at the subject rental property on June 15, 2021 to conduct the move out inspection because of the tenant's notice to vacate, the tenant refused entry to the landlord and made the following text:

If you need a place to sleep I'm sure I can find room in my bed

The above text message was entered into evidence. The landlord testified that tenant M.J. then proceeded to make loud sex noises that were audible through the front door.

The landlord testified that the tenants have not paid rent for June or July 2021.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*

- *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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

An early end of tenancy is an expedited and unusual remedy under the *Act* and is only available to the landlord when the circumstances of the tenancy are such that it is unreasonable for a landlord to wait for the effective date of a notice to end tenancy to take effect, such as a notice given under Section 47 of the *Act* for cause. At the dispute resolution hearing, the landlord must provide convincing evidence that justifies not giving full notice.

Based on the caretaker's email I find that the condition of the interior of the subject rental constitutes a fire hazard which has put the landlord's property at significant risk, contrary to section 47(1)(d)(iii) of the *Act*.

I accept the landlord's undisputed testimony that loud fights and banging sounds are frequently heard at the subject rental property and that these fights unreasonably disturb other tenants of the subject rental building, contrary to section 47(1)(d)(i) of the *Act*.

Based on the landlord's undisputed testimony and the photographs of the broken front door entered into evidence, I find that the tenants have caused extraordinary damage to the front door, contrary to section 47(1)(f) of the *Act*.

Based on the landlord's undisputed testimony and the June 15, 2021 text message entered into evidence I find that the tenant M.J. sexually harassed the landlord which significantly interfered with and unreasonably disturbed the landlord, contrary to section 47(1)(d)(i) of the *Act*.

I find that it would be unreasonable and unfair to the landlord and the other tenants of the subject rental building to wait for a notice to end tenancy under section 47 of the *Act* [landlord's notice: cause] to take effect because, on a balance of probabilities, I find

that further substantial damage to the property is likely to occur and because the property is a fire hazard. It is unreasonable to put the other tenants at the subject rental building at risk of a fire while waiting for a One Month Notice to End Tenancy for Cause to take effect.

I find that it would be unreasonable for the landlord to be subjected to prolonged contact with tenant M.J. given the sexual harassment already proved.

Pursuant to section 55 and 56 of the *Act* I award the landlord a two day order of possession.

Conclusion

Pursuant to section 55 and 56 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenants**. Should the tenants fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: July 08, 2021

Residential Tenancy Branch