



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 pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The landlord attended with their family member assisting and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with their application and evidence in person on July 31st at around 6:30pm. Based on the undisputed evidence of the landlord I find that the tenant was duly served with the landlord's materials on July 31st, 2021 in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end of tenancy and Order of Possession?

Is the landlord entitled to recover the filing fee from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The landlord provided undisputed evidence regarding the following facts. This tenancy began on January 16, 2020. The current monthly rent is \$1,250.00 payable on the first of each month. A security deposit of \$500.00 was collected and is still held by the landlord. The rental unit is a basement suite in a detached home with the landlord occupying the main floor of the building and another unrelated occupant residing in a third suite. A copy of the signed tenancy agreement was submitted into evidence.

The name of the tenant in the tenancy agreement differs from the name provided for the respondent in the present application. The landlord explained that the tenant has used both names and believe that the named used in the application is the correct name.

During the course of this tenancy the tenant, and their adult son, has engaged in conduct and activity that has caused disruption to the landlord, the other occupant of the building and their neighbors. The disruptive activities of the tenant and their family member includes causing excessive noise, smoking and vaping in and around the building so that smoke enters the other suites, damaging the rental property by not disposing of garbage and waste properly, smashing windows and walls, engaging in hostile and aggressive interactions with the landlord and their family members and threatening others with retribution. The landlord submitted into documentary evidence copies of correspondence between the parties as well as notes taken regarding complaints received from the other occupant.

The landlord issued a 1 Month Notice to End Tenancy for Cause dated July 14, 2021. The landlord testified that since serving the tenant with the notice their actions have escalated necessitating the police being called to attend on a number of occasions. The landlord and their family member testified that they are fearful for their personal safety and that they have observed the tenant actively damaging the rental property by breaking the windows.

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.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

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.

Based on the totality of the evidence before me, including the testimony of the landlord and documentary materials, I find that the landlord has provided sufficient evidence to show that the tenant, and individuals allowed on the property by the tenant, have significantly interfered with and unreasonably disturbed other occupants of the

residential property and the landlord and caused extraordinary damage to the property such as to form a basis to end the tenancy.

I accept the landlord's testimony that the tenant and their family members have caused disturbance to the landlord, the other occupant of the property and to neighboring buildings through the volume and frequency of noise, hostile and aggressive interactions and preventing others from accessing common areas of the property. I am satisfied with the testimony supported in the documentary materials that the tenant has caused damage to the rental unit by breaking windows, doors and walls such that it would be reasonably characterized as extraordinary damage.

I accept the landlord's evidence that since the issuance of the 1 Month Notice on July 14, 2021 the tenant and their family members' conduct has deteriorated even further with the tenant sending correspondence promising retribution to the landlord. I accept the evidence that the tenant and their family members have escalated their behaviour to cause further disturbance and interference with others on and about the rental property.

Based on the escalating situation I find it would be unreasonable and unfair to the landlord and other occupants of the property to wait for a Notice to End Tenancy under section 47 to take effect. I therefore issue an Order of Possession to the landlord pursuant to section 56 of the Act.

As the landlord was successful in their application, they are also entitled to recover their filing fee from the tenant. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenant's security deposit in full satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The security deposit for this tenancy is reduced by \$100.00 from \$500.00 to \$400.00
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: August 13, 2021

Residential Tenancy Branch