



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 landlords' 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 tenants pursuant to section 72.

The tenants did not attend this hearing which lasted approximately 10 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 landlords attended and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord RD (the "landlord") primarily spoke on behalf of the two co-landlords.

The landlords were 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 each of the tenants with the notice of application and evidence personally on July 29, 2021 in the presence of a witness. Copies of the signed Proof of Service forms were submitted into evidence. Based on the undisputed evidence I find that each of the tenants is duly served with the materials on July 29, 2021 in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Are the landlords entitled to an early end of this tenancy and Order of Possession?
Are the landlords entitled to recover the filing fee from the tenants?

Background and Evidence

The landlords provided undisputed evidence regarding the following facts. This periodic tenancy began in July 2020. The monthly rent is \$1,500.00 payable on the 1st of each month. A security deposit of \$750.00 was collected at the start of the tenancy and is still held by landlords. The rental unit is a basement suite in a detached house with the landlords occupying the other portion of the building.

The landlords submit that the tenants have been dumping their garbage and refuse in the common backyard of the building, have disturbed the landlords and neighbors by causing loud noises, and have had numerous hostile confrontations with the landlords and their family members.

The landlords submitted into evidence photographs of the rental unit as well as video recordings of the tenants threatening the landlords with bodily harm, shouting obscenities and making aggressive confrontational movements.

The landlords say that the behaviour of the tenants has required intervention by police on a number of occasions and that they are fearful for their personal safety. The landlords testified that the behaviour of the tenants have been ongoing and escalating in severity.

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 evidence of the landlord, including their testimony, documentary materials and video recordings, I am satisfied that the tenants have unreasonably disturbed the landlords and seriously jeopardized their health and safety.

I find the evidence of the landlords clearly shows the tenants shouting threats and obscenities at the landlords and their family members. These threats are detailed and I have no reason to believe the tenants do not intend to carry out their intention to physically harm the landlords. I accept the undisputed evidence that the tenants have acted in an aggressive, confrontational and threatening manner throughout the tenancy and that they have caused extreme anxiety and fear to the landlords and their family members. I am satisfied on a balance of probabilities that there is sufficient basis for this tenancy to end.

I accept that the tenants have continued to act in a violent manner necessitating intervention by the authorities on a number of occasions. I find the nature of the violent threats makes it unreasonable to wait for a Notice to End Tenancy under section 47 to take effect. I therefore issue an Order of Possession to the landlords pursuant to section 56 of the *Act*.

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

Conclusion

I grant an Order of Possession to the landlords effective **2 days after service on the tenants**. Should the tenants 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 \$750.00 to \$650.00.

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 6, 2021

Residential Tenancy Branch