



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 for this application, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:48 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord and his wife attended the hearing and both were given a full opportunity to be heard, to present sworn 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. During the hearing, I also confirmed that the landlord, landlord's wife, and I were the only ones who had called into this teleconference. All parties were clearly informed of the RTB Rules of Procedure Rule 6.11 which prohibits the recording of a dispute resolution hearing. All parties confirmed that they understood.

The landlord testified that the tenant was personally served with the landlord's application for dispute resolution package and evidence on August 4, 2021. In accordance with sections 88 and 90 of the *Act*, I find the tenant duly served with the landlord's Application and evidence. The landlord acknowledged receipt of the tenant's evidentiary materials.

Issues(s) to be Decided

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

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below

The landlord provided the following submissions. This month-to-month tenancy began on June 7, 2021, with monthly rent set at \$900.00, payable on the first of the month. The landlord testified that they had collected a security deposit in the amount of \$450.00, although a pet damage deposit was not paid.

The landlord testified that the tenant rents one of the bedrooms in the four bedroom home, which is located in the upstairs portion of the home. The landlord testified that the tenant has their own bathroom and kitchenette, which the tenant has exclusive access to.

The landlord filed this application as they feel that the tenant poses an ongoing threat to the family, which includes the landlord, landlord's wife, and two children ages twelve and four. The landlord testified that the tenant presented herself as very sweet when she had applied, but immediately after the tenant moved in the tenant changed.

The landlord testified that the behaviour and actions of the tenant have caused the landlord and their family considerable fear and concern as the tenant's room is located within the home. The landlord testified that the day after the tenant moved in, the tenant was involved in an argument with the landlord over the other tenant who rents the coach home. The landlord testified that the tenant threatened the landlord that if the tenant did not remove the other tenant, the tenant would "make your lives a living hell". The landlord and their wife testified that the tenant would purposely aggravate and intimidate the family by being combative when approached about house rules such as smoking, and even when the landlord asked questions about the tenant's guests. The landlord testified that they have moved their children to their own bedroom. The landlord feels that they cannot continue to live with the tenant in their home, especially considering the way the tenant responds when approached.

The landlord confirmed that the tenant has been served with a 1 Month Notice to End Tenancy, but has not moved out.

The tenant submitted written evidence, which included character reference letters, and screenshots of messages.

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 a 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.

Based on the evidence and sworn testimony before me, I find that sufficient evidence has been provided to warrant an end to this tenancy for several of the reasons outlined in section 56, as outlined above. I find that the tenant has seriously jeopardized the health or safety or a lawful right or interests of the landlord and his family. The landlord is seeking an Order of Possession as the landlord is concerned that the tenant's behavior is threatening in nature, and has escalated to the extent that they are extremely fearful of the tenant.

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate that "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" for cause to take effect. On this point, I find that the reasons cited by the landlord for circumventing the

standard process for ending a tenancy for cause meet the test required to end this tenancy early as this matter pertains the immediate safety of the landlord and their family, who reside within the same home.

The main reason for the urgent nature of this application is the immediate risk to the safety of the landlord and other occupants, and I find that the landlord has provided sufficient evidence to support this. Of particular concern is the fact that the tenant has engaged in threatening and aggressive behaviour immediately after the tenant moved in, which highlights the potential volatility that the landlord, his wife, and small children may face if this tenancy continues, and the potential for further threats or intimidation.

Although the tenant did provide character references letters for this application, I am not satisfied that these parties have personally witnessed the interactions between the tenant and landlord and landlord's family. The tenant did not attend the hearing to dispute the landlord's statements, nor did the tenant call witnesses in the hearing to provide testimony and be cross examined about the incidents described in the landlord's testimony and application.

I find it concerning that the tenant made a direct threat towards the landlord, and continues to act in a manner that have caused the landlord and the family terror in their own home. Under these circumstances, I find that it would be unreasonable and unfair to the landlord and his family to wait for a 1 Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the landlord has provided sufficient evidence to warrant ending this tenancy early. I issue a two day Order of Possession to the landlord.

I allow the landlord's application to recover the \$100.00 filing fee from the tenant. Using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$100.00 of the security deposit in satisfaction of this monetary award.

Conclusion

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

I allow the landlord to recover the \$100.00 filing fee by allowing the landlord to retain \$100.00 from the security deposit for this tenancy.

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 26, 2021

Residential Tenancy Branch