



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 landlords' application pursuant to the *Residential Tenancy Act* ("Act") for:

- an early end to tenancy and an Order of Possession, pursuant to section 56.

The two tenants (male and female) did not attend this hearing, which lasted approximately 41 minutes. The two landlords, landlord SC ("landlord") and "landlord RD" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlords intended to call two witnesses, who were excluded from the outset of this hearing. The landlords chose not to recall them to testify, despite being given multiple opportunities to do so.

This hearing began at 1:30 p.m. and ended at 2:11 p.m. The two tenants did not call into this hearing, although the teleconference line was monitored throughout the hearing. 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 two landlords and I were the only people who called into this teleconference.

The landlord confirmed that she owned the rental unit. She said that landlord RD was her agent and had permission to speak on her behalf (collectively "landlords").

At the outset of this hearing, I informed the two landlords that Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules") does not permit recording of this hearing by any party. The two landlords affirmed, under oath, that they would not record this hearing.

I explained the hearing process to both landlords. Both landlords had an opportunity to ask questions. Both landlords confirmed that they were ready to proceed with this hearing and they wanted me to make a decision. Both landlords did not make any adjournment or accommodation requests.

This matter was filed as an expedited hearing under Rule 10 of the RTB *Rules*. The landlords filed this application on July 19, 2021 and a notice of hearing was issued by the RTB on July 30, 2021. The landlords were required to serve that notice, the application, and all other required evidence to the tenants, within one day of receiving the documents from the RTB, as per RTB *Rules* 10.2 and 10.3.

The landlord stated that she personally handed two copies of the landlords' application for dispute resolution hearing package to the female tenant on July 30, 2021. Landlord RD confirmed that she witnessed this service. The landlords provided a signed, witness proof of service for same. In accordance with sections 89(2)(a) and (c) of the *Act*, I find that both tenants were personally served with the landlords' application on July 30, 2021, by way of serving the female tenant, who is an adult residing with the male tenant.

Issues to be Decided

Are the landlords entitled to an early end to tenancy and an Order of Possession?

Background and Evidence

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

The landlord stated the following facts. This tenancy began on February 1, 2021. Monthly rent in the amount of \$1,300.00 is payable on the first day of each month. A security deposit of \$650.00 was paid by the tenant and the landlords continue to retain this deposit. A written tenancy agreement was signed by both parties. The tenants continue to reside in the rental unit.

The landlord testified regarding the following facts. The male tenant has been violent, threatened to beat the two “upstairs occupants” up, threatened the landlord, and used foul names, derogatory terms and inappropriate language against the landlord. The male tenant used foul and profane language in front of the landlord’s grandkids, when they were visiting her. The male tenant told the landlord not to come to the rental property and the upstairs occupants are afraid to use the shared backyard. The male tenant made threats to the landlord stating: “you better not come here if you know what’s good for you.” The male tenant swung a door at the landlord and it almost hit her, but she stepped back to avoid it. The landlord has not gone to the rental property because she is afraid of the male tenant. The male tenant threatened to kill the landlord and everyone at the rental property. The landlord is worried that the male tenant will hurt her and her property. The upstairs occupants live in fear and the landlord cannot do anything to protect them, except come to the RTB for this hearing. The landlord has received numerous complaints from the upstairs occupants and has provided emails and text messages from them, regarding the male tenant threatening them, using foul abusive language, and recording them. The police have attended at the rental unit regarding the male tenant’s behaviour.

The landlord stated the following facts. She issued a 1 Month Notice to the tenants. She gave another notice for them to move out, but it will take effect in October 2021. The landlord has given the tenants multiple warning letters, but the situation keeps escalating. The female tenant cannot control her dog. The neighbours have complained about the tenants’ dog barking. The landlord stores her items in the garage, but the tenants have breached and blocked the garage access. The male tenant is using a trailer on the rental property, which is unsightly, so the landlord could face fines from the bylaw officers if he does not remove the trailer. The male tenant has destroyed the landlord’s herb garden by ripping it up. One of the upstairs occupants found dog feces on the couch in the back deck and sat on it. There is a gate, so no dog should be able to go up there. The dog feces smell and is unsightly.

The landlords provided a copy of a One Month Notice to End Tenancy for Cause, dated May 31, 2021 (“1 Month Notice”) with an effective move-out date of June 30, 2021 for the following two reasons:

- *Tenant or a person permitted on the property by the tenant has:*
 - *significantly interfered with or unreasonably disturbed another occupant or the landlord;*
 - *seriously jeopardized the health or safety or lawful right of another occupant or the landlord.*

Landlord RD stated the following facts. The landlord is afraid of the male tenant and does not go to the rental property because of him. The male tenant has threatened the landlord and the upstairs occupants. The upstairs occupants are afraid of the male tenant. The landlord could face bylaw fines because the tenants will not remove their trailer from the rental property. The tenants are breaching their agreement by blocking garage access from the landlord.

Analysis

Section 56 of the *Act* requires the landlords to show, on a balance of probabilities, that the tenancy must end earlier than the thirty days indicated on a 1 Month Notice, due to the reasons identified in section 56(2) of the *Act* **AND** that it would be unreasonable or unfair for the landlords or other occupants to wait for a 1 Month Notice to take effect, as per section 56(2)(b).

To satisfy section 56(2)(a) of the *Act*, the landlords must show, on a balance of probabilities, that:

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:*
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
 - (iii) put the landlord's property at significant risk;*
 - (iv) engaged in illegal activity that*
 - (A) has caused or is likely to cause damage to the landlord's property,*
 - (B) 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, or*
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
 - (v) caused extraordinary damage to the residential property...*

On a balance of probabilities and for the reasons stated below, I find that the male tenant significantly interfered with and unreasonably disturbed the landlord and other occupants at the residential property.

I accept the affirmed and undisputed testimony of both landlords that the male tenant engaged in threatening and abusive conduct at the residential property. I find that the landlord and the two upstairs occupants are fearful since the male tenant has threatened to kill all of them and has used foul, profane and derogatory language against all of them. I find that this is a pattern of behaviour, which has been ongoing since April and May 2021, that has caused *significant* interference, *unreasonable* disturbance, and safety risks to the landlord and other occupants at the residential property. I accept the landlord's testimony that the police attended at the residential property, as a result of calls from the landlord and other occupants, regarding the behaviour of the male tenant.

The landlord submitted 56 pages of undisputed documentary evidence, including written warning letters to the tenants, emails and text messages from the upstairs occupants, written details from the landlord, photographs of the residential property, photographs of the police attending the residential property, and photographs of a police constable's business card and the police file number for the case. The above documents involve the behaviour of the male tenant, relating to verbal threats, use of foul language, and abusive behaviour against the landlord and the upstairs occupants.

I also find that the landlords' application meets the second part of the test under section 56(2)(b) of the Act. I find that the landlord provided sufficient evidence that it would be "unreasonable" or "unfair" to wait for a 1 Month Notice to take effect.

I find that the landlords provided sufficient evidence regarding the urgency and seriousness of this situation. The landlords provided a copy of a 1 Month Notice, which was served to the tenants on May 31, 2021, and is effective on June 30, 2021. This date has already passed. That notice states that the male tenant uttered threats to cause bodily harm, among other incidents at the residential property. As noted above, I found that the male tenant made repeated threats to kill the landlord and the upstairs occupants, so I find this is a serious and urgent safety issue.

Accordingly, the landlords' application for an early end to tenancy is granted. The landlords are granted an order of possession effective two (2) days after service on the tenants.

Conclusion

The landlords' application for an early end to tenancy is granted.

I grant an Order of Possession to the landlord(s) effective two (2) days after service on the tenant(s). Should the tenant(s) 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.

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