



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1164062 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: ET FFL

Introduction

In this application for dispute resolution the landlord seeks an order ending the tenancy early, pursuant to section 56 of the *Residential Tenancy Act* ("Act"). In addition, the landlord seeks an order for repayment of the application filing fee pursuant to sections 59(2) and 72(1) of the Act.

The landlord's agent attended the hearing which was held by teleconference. The tenant did not attend the hearing. I am satisfied based on the oral and documentary evidence provided, including a Proof of Service of Notice of Expedited Hearing Proceeding, that the tenant was served with the Notice of Expedited Dispute Resolution Proceeding in compliance with Act and the *Rules of Procedure*.

Issues

1. Is the landlord entitled to an order under section 56 of the Act?
2. Is the landlord entitled to an order for repayment of the filing fee?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issues of this dispute, and to explain the decision, is reproduced below.

The tenancy began on March 5, 2020, monthly rent is \$650.00, and the tenant paid a \$325.00 security deposit. The security deposit is currently held in trust by the landlord. There is a copy of a written tenancy agreement in evidence.

The landlord's agent gave evidence that the issues that led the landlord to make this application comprise many disturbances over the course of a year. One tenant in the

multi-rental unit residential complex vacated the property because of the tenant-caused disturbances. The disturbances comprise lots of partying, threats to others, and a constant flow of individuals to and from the rental unit. The latter flow of traffic is, the landlord believes, indicia of drug trafficking.

In one of the rental units there resides a young family with a child. That family contacted the RCMP on July 30, 2021 to address one of the tenant's disturbances. On July 31, the family's family vehicle's tires had their air let out. Another occupant also reported threats made by the tenant to them, also on July 31. Many of these complaints have been made to the RCMP, who have in turn reported these matters to the building manager (A.H.). An email from the property manager regarding the complaints was in evidence.

Analysis

Section 56(1) of the Act permits a landlord to make an application for dispute resolution to request an order (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47, and (b) granting the landlord an order of possession in respect of the rental unit.

In order for me to grant an order under section 56 (1), I must be satisfied, 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, and

- (b) it would be unreasonable, or unfair to the landlord 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.

In this case, the undisputed evidence persuades me to find that the tenant's constant parties have unreasonably disturbed other occupants. The evidence supports a finding that threats (an illegal activity under the *Criminal Code*) made by the tenant have adversely affected the quiet enjoyment, security and safety of other occupants. Indeed, the letting of air out of one of the complainant tenants' tires is evidence of seriously jeopardizing the lawful right of another occupant.

It is noted that the landlord's agent did not make any submissions as to how or why it would be unreasonable or unfair to the landlord or other occupants of the residential property to wait for a notice to end the tenancy under section 47 (which involves the issuing of a *One Month Notice to End Tenancy for Cause*). However, given the nature of the ongoing threats, I see no compelling reason why the other tenants in the property ought to have to wait for a notice to end tenancy issued under section 47. A further delay in ending this tenancy would be both unreasonable and unfair to the landlord and to the other occupants of the residential property.

In summary, taking into consideration all of the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving this application for an order under section 56 of the Act.

As such, pursuant to section 56 of the Act, the tenancy is hereby ordered ended effective immediately, and the landlord is issued an order of possession. As explained to the agent in the hearing, the landlord's agent will need to serve a copy of the order of possession on the tenant. The order of possession will go into effect two days after it is served on the tenant.

Section 72 of the Act permits me to order compensation for the cost of the filing fee to a successful applicant. As the landlord succeeded in their application, I grant them \$100.00 in compensation to cover the cost of the filing fee.

Section 38(4)(b) of the Act permits a landlord to retain an amount from a security or pet damage deposit if "after the end of the tenancy, the director orders that the landlord may retain the amount." As such, I order that the landlord may retain \$100.00 of the tenant's security deposit to compensate the landlord for the cost of the filing fee.

Conclusion

The application for an order ending the tenancy early is granted.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: September 30, 2021

Residential Tenancy Branch