



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This expedited hearing dealt with the landlord's application seeking an early end of the tenancy and Order of Possession pursuant to section 56 of the *Residential Tenancy Act* (the *Act*).

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 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 the notice of application and evidence by posting on the rental unit door on September 9, 2021 in the presence of a witness. The landlord submitted a signed Proof of Service form as evidence of service. Based on the undisputed evidence I find that the tenant is deemed served with the landlord's materials on September 12, 2021, three days after posting, in accordance with sections 88, 89 and 90 of the Act.

Issue(s) to be Decided

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

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This periodic tenancy began approximately 13 years ago. The landlord assumed the tenancy when they inherited the rental property from a family member. The current monthly rent is \$450.00 payable on the first of each month. The rental unit is a stand-alone building on agricultural property.

The landlord submits that since about March 2021 the tenant's conduct and behaviour in interactions with others has deteriorated. The landlord testified that the tenant has acted in an aggressive, hostile and violent manner with neighbors and occupants of the adjoining properties. Most egregiously on August 11, 2021 the tenant shot at a neighbor with a shotgun. A written statement from the neighbor was submitted into evidence.

The written statement details that the neighbor heard at least two shots from the tenant who immediately ran off when they were seen shooting at the neighbor. The neighbor contacted the local authorities who have opened an investigation into the matter.

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 undisputed testimony of the landlord and their documentary materials, I find that the landlord has provided sufficient evidence to show that the tenant has significantly interfered with and unreasonably disturbed other occupants of the residential property and the landlord.

I am satisfied with the detailed, cogent testimony of the landlord providing specific instances of the tenant engaging with others in a hostile and aggressive manner. I find that the witness statement provided by the landlord supports the landlord's testimony that there has been increasing violent behaviour on the part of the tenant.

I find that shooting a shotgun in the vicinity of others is an inherently violent and dangerous act regardless of whether the tenant purposefully aimed at the neighbor. I find that one instance of a shot going off may be attributable to an accident but two shots in succession is sufficient to find intent on the part of the tenant.

I find that allowing a tenant to remain on the rental property would be unreasonable, unfair and potentially dangerous to the landlord and other occupants of the property. I therefore issue an Order of Possession to the landlord pursuant to section 56 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or any occupant 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: September 28, 2021

Residential Tenancy Branch