



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The Landlord applied for an early end to the tenancy, pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The Landlord attended the hearing and provided testimony. However, the Tenant did not appear. The Landlord stated that she posted the Notice of Hearing, and evidence to the front door of the rental unit on September 11, 2021. Pursuant to section 90 of the Act, I find the Tenant is deemed to have received this package 3 days later.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

The Landlord stated that over the past month, the Tenant has displayed troubling signs of having a mental breakdown, and has been violent and aggressive. The Landlord pointed to an incident on August 16, 2021, whereby she went by the rental unit to pick up the Tenant's Notice (he asked the Landlord to come and pick up his Notice to End

Tenancy, as he wanted to move out). On this day, the Landlord arrived at the house, and heard music blaring and as she approached the house, she saw the door was open, furniture was thrown all over the lawn, and the Tenant had completely trashed his place, and had thrown around belongings of other Tenants in the building.

The Landlord stated that when she approached the Tenant's front door, she tried to knock, but his music was so loud he couldn't hear, so she walked inside the door and knocked on the wall, when she was confronted by the Tenant. At this point, the Tenant started calling the Landlord a "fucking cunt" and was repeatedly spitting on her. The Landlord fled the rental unit, and as she was leaving, the Tenant threw a screwdriver at her, and kicked in the window of the lower rental unit as he was chasing the Landlord away. The Landlord explained that as she got out front, the Tenant dropped his pants and showed her his private parts. The Landlord stated that the Tenant was in a fully aroused state, and started masturbating at her. The Landlord fled to the neighbours house, and has been feeling traumatized since the incident.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; and, 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 to take effect.

I have carefully considered the undisputed evidence before me and I find the Tenant's behaviour is significant and severe enough as to warrant an early end to the tenancy,

pursuant to section 56 of the Act. I find the Tenant's overt and sexually aggressive behaviour, combined with hostile and physically threatening behaviour poses an immediate and severe risk to other occupants and the Landlord. As such, I find the Landlord is entitled to an order of possession.

As the Landlord's application was successful, and pursuant to section 72 of the Act I grant the Landlord the recovery of the cost of the filing fee in the amount of **\$100.00**. I **authorize** the Landlord to retain \$100.00 from the Tenant's security deposit in full satisfaction of the recovery of the cost of the filing fee

Conclusion

The Landlord has met the burden to prove the tenancy should end early.

The Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

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