



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's advocate, MN, appeared for the tenant in this hearing. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties were clearly informed of the RTB Rules of Procedure about behaviour including Rule 6.10 about interruptions and inappropriate behaviour, and Rule 6.11 which prohibits the recording of a dispute resolution hearing. Both parties confirmed that they understood.

The tenant confirmed receipt of the landlord's application for dispute resolution ('Application'). In accordance with section 89 of the *Act*, I find that the tenant duly served with the Application. All parties confirmed receipt of each other's evidentiary materials and that they were ready to proceed.

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

This month-to-month tenancy began on April 14, 2020, with monthly rent currently at \$800.00, payable on the first of the month. The landlord had collected a security deposit in the amount of \$350.00, which they still hold.

The landlord filed this application due to the numerous issues the landlord has had to deal with in relation to this tenancy. The landlord testified that they had previously served the tenant with a 1 Month Notice on May 29, 2021, which was dismissed after a hearing on April 30, 2021. The landlord testified that since the issuance of that 1 Month Notice, the tenant continues to act in a manner that has put the building, the landlord, and other occupants at significant risk. The landlord provided a detailed timeline of the events that have taken place during this tenancy, including repeated complaints and incidents about the use of drug and drug paraphernalia, the endless number of unknown and unauthorized persons into the common areas of the building, the considerable mess left by the tenant inside the building, alleged illegal activity in the hallways and common areas, and incidents such as the one on September 14 2021, prior to the filing of this application, where the tenant was involved in physical fight that resulted in a smashed front window in the building.

In addition to the detailed timeline, the landlord provided documentary evidence to support the claims made in this application, including photos and communication between the parties.

The landlord expressed their concern and frustration over having to deal with the tenant, and testified that the other residents in the fourteen unit building, that was part of a larger 5 building complex, are fearful of the tenant and tenant's guests.

The advocate attended the hearing, and noted that the tenant suffers from mental health issues. The advocate also testified that the tenant denies most of the allegations made.

Both parties confirmed that a hearing is set for a future date to deal with a 10 Day Notice for Unpaid Rent.

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 of the *Act* for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56 of the *Act*, 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.

The reasons cited in the landlord's application would need to be supported by sworn testimony and/or written, photographic or video evidence in order to qualify for the first part of section 55 of the *Act*. Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered.

The landlord provided detailed written evidence and testimony for this hearing to support why they felt that this tenancy should end immediately. The tenant disputes the allegations made by the landlord in this application.

The landlord testified that even though they had previously served the tenant with a 1 Month Notice to End Tenancy for Cause, the tenant continues to act in a manner that has seriously disturbed the landlord and other tenants in the building. The landlord is concerned about the fact that the tenant continues to engage in activity that puts others at risk, such as the allowance of unauthorized person in the building, who then engage in illegal activity including drug use and physical altercations. The landlord provided evidence to support evidence of a physical fight that took place prior to the filing of this application, which resulted in a smashed window. The landlord testified to the numerous residents in the building who have been affected by the tenant's behaviour, as well as the people associated with the tenant who attend the property.

I have considered the submissions and evidence of both parties. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair. As stated in Residential Policy Guideline 51, applications to end a tenancy early are for very serious breaches only.

I acknowledge the fact that the tenant disputes the allegations, and suffers from mental health issues. I also acknowledge the fact that the landlord has provided substantial and detailed evidence to support their concerns, and the significant and disturbing nature of the incidents that have, and continue to take place due to the tenant's actions.

In light of the evidence before me, I find the continuance of this tenancy would put all the other residents in the building and complex at risk. I find that the tenant had ample opportunity after the last hearing to address the landlord's concerns but instead the incidents have escalated to the extent that the landlord feels like that have no choice but to apply for an early termination of this tenancy.

I find that the landlord has provided sufficient evidence to support that the behaviour from the tenant that has caused other residents in this building, as well as the landlord, to become concerned for the safety and well-being of all those in the building, which also impacts their right to quiet enjoyment of their residences. I find that the landlord has highlighted the potential volatility that the other residents may face if this tenancy continues, and the potential for further violence and risk to the well-being of others. I find that the totality and seriousness of the incidents that have taken place, combined with the high likelihood that similar or more serious incidents will take place, justifies the immediate termination of this tenancy.

Under these circumstances, I find that it would be unreasonable and unfair for the landlord 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 undisputed evidence to warrant ending this tenancy early. I issue a two day Order of Possession to the landlord.

As the landlord was successful in this application, 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 \$50.00 of the security deposit in satisfaction of this claim.

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 landlords to recover the \$100.00 filing fee by allowing the landlord to retain \$50.00 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: October 21, 2021

Residential Tenancy Branch