



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

The landlord filed an Application for Dispute Resolution on September 22, 2021 seeking an order to end the tenancy on the basis that the tenant poses an immediate and severe risk to the property, other occupants, or the landlord. The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on October 21, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the hearing; the tenant did not.

The landlord stated that they delivered notice of this dispute resolution to the tenant by attaching the document to the rental unit door. They provided a photo of this action, and provided a document entitled ‘proof of service’ to show this method, attested to by a witness, took place on September 23, 2021 at 7:08pm. The landlord, for important reasons concerning the incident involving the tenant, has had no contact with the tenant and has not visited to the rental unit.

From what the landlord presents here on notifying the tenant of this hearing, I am satisfied they served the tenant notice of this hearing in a method prescribed by s. 89(2)(d) the *Act*. I consider the document received by the tenant on September 26, 2021, as per s. 90(c) of the *Act*.

Issues to be Decided

Is the landlord entitled to an Order of Possession that ends the tenancy for cause and without notice, by s. 56 of the *Act*?

Is the landlord entitled to compensation for the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The landlord confirmed details of the tenancy agreement and submitted a copy for my review. The tenancy started on September 25, 2020 on a month-to-month basis. The rent amount is \$2,600 per month, and the agreement specifies that the tenant is to pay on the 1st of each month.

The landlord applies for an end of tenancy based on the “immediate and severe risk to the rental property, other occupants or the landlord.” This is for an incident on August 29, 2021 around 10:30am in which the tenant pushed the landlord’s spouse down the staircase. The landlord’s child was in attendance and witnessed this and called the police. The landlord provided the police file number to show police involvement.

The landlord’s spouse was unable to attend work in the days following due to injuries sustained.

After this, in their Affidavit sworn on September 8, 2021, the landlord’s spouse stated they received other threats from the tenant. This is the tenant’s statement that they would again try to hurt the landlord’s spouse and get their own spouse to “destroy [the landlord’s] home and never to come back and try to collect any rent again.”

In their evidence, the landlord also provided a sworn statement of an associate, who was warned by the tenant’s spouse via telephone on September 1, 2021, to not get involved in the situation. This involved a threat to both their own person and the property involved.

The landlord’s own affidavit is in the evidence, that they were informed the tenant’s spouse “is planning to hurt me and also damage my property.” The landlord also made their own report to the police about these threats.

Analysis

The *Act* s. 56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 56(1) A landlord may 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 tenancy were given under section 47 [*landlords' notice: cause*], and
 - (b) granting the landlords an order of possession in respect of the rental unit.

Following this, s. 56(2) sets out two criteria. First, the landlords must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the landlords to wait for a set-period Notice to End Tenancy to take effect under a different section of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

- 56(2) . . .
- (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 landlords of the residential property;
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlords or another occupant;
 - (iii) put the landlords' property at significant risk;
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlords' 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 landlords;
 - (v) caused extraordinary damage to the residential property . . .

I have considered the evidence of the landlord concerning the conduct of the tenant and the incident in question. There is also clear evidence of threats made after the incident concerning the immediate safety of the landlord, their associate, and their property.

I find there is sufficient evidence to show the tenant was the cause of the incident in question. This was an assault, and the landlord's spouse provided affidavit evidence that they were injured and contacted the police. I find this is an action that is specified by section 56(2) above,

particularly subsections (a) (i) and (ii). With subsection (iv), I find the affidavit evidence presented here shows the tenant is likely to cause damage to the landlord's property.

First, from the evidence I am satisfied that the facts of the situation prove cause. Secondly, I find it unfair for the landlords to wait for a set-period Notice to End Tenancy to take effect. The tenant's spouse followed the incident with threats of more violence and/or damage to the property. I find this warrants an expedited end to the tenancy in that the tenant maintains occupancy in the rental unit. I so grant an Order of Possession in line with this rationale.

Conclusion

For the reasons above, I grant an Order of Possession to the landlords effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant a monetary order for the landlord's reimbursement of the \$100 Application filing fee. This monetary order may be filed in the Provincial Court (Small Claims) and 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 s. 9.1(1) of the *Act*.

Dated: October 21, 2021

Residential Tenancy Branch