



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on November 14, 2021 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk; and
- a monetary order granting the recovery of the filing fee.

The hearing was scheduled for 9:30 A.M. on December 3, 2021 as a teleconference hearing. The Landlord, and the Landlord's witnesses L.D. and L.P. attended the hearing at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 17 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord, the Landlord's witnesses, and I were the only persons who had called into this teleconference.

The Landlord testified the Application and documentary evidence package was served to the Tenant in person on November 20, 2021. The Landlord's witness L.D. confirmed that he witnessed the Landlord serve the above-mentioned documents to the Tenant. Based on the oral and written submissions of the Applicant and their witness, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence on November 20, 2021. The Tenant did not submit documentary evidence in response to the Application.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord testified that the tenancy began on August 1, 2021. Currently, the Tenant pays rent in the amount of \$1,450.00 which is due to the Landlord on the first day of each month. The Landlord stated that the Tenant paid a security deposit in the amount of \$725.00 which the Landlord continues to hold. The Landlord stated that the Tenant continues to occupy the rental unit.

The Landlord stated that he is seeking to end the tenancy early as the Tenant and her guests have;

“significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health and safety or lawful right of another occupant or the landlord, and put the Landlord’s property at significant risk.”

The Landlord stated that he served the Tenant with a One Month Notice to End tenancy in relation to smoking in the rental unit and on the rental property, which is a breach of the tenancy agreement. Since then, the Landlord stated that the Tenant has escalated his defiant behaviour to include, uttering threats towards the Landlord and other occupants, turned off the power to the rental unit from the breaker box located in the rental unit, changed the locks so that the Landlord is unable to access the rental unit, and damaged the rental unit.

The Landlord stated that the Police have been called to the rental unit on ten occasions to address the threats made by the Tenant to others, as well as to have the Tenant restore the power to the rental property. The Landlord also stated that during the service of the Application, the Tenant assaulted the landlord by kicking and punching him, while the Landlord attempted to remove himself from the situation. The Police attended as a result and arrested the Tenant.

The Landlord's witness L.P testified that he lives in the upper rental unit at the rental property and has had to endure the strong smell of cannabis in his rental unit. L.P stated that the Tenant has made verbal threats to him as well and on several occasions has been seen snooping and peering through the windows before throwing rocks at the window. L.P stated that he has a young family with 3 children who are terrified of the Tenant due to his actions and loud swearing and screaming during all hours of the night. L.P. stated that the Tenant turns off the power to his rental unit, causing them to go without lights, heat, and he has had to throw out spoiled food as a result of the Tenant turning off the power.

Analysis

Based on the unchallenged documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy 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*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied...

- (a) The tenant or a person permitted on the residential property by the tenant had 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 landlords 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.

The causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the Tenant must be extreme and require immediate action.

In this case, the Landlord and his witnesses' unchallenged evidence and testimony indicated that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health and safety or lawful right of another occupant or the landlord, and put the Landlord's property at significant risk. Further, I find it would be unreasonable or unfair to the Landlords to wait for a notice to end the tenancy under section 47 of the *Act*.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective **two (2) days** after service on the Tenant. In addition, having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective **two (2) days** after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord may deduct \$100.00 from the Tenant's security deposit held.

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: December 03, 2021

Residential Tenancy Branch