



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 tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:41 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing with their agent, and both were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. 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 that the landlord, their agent, and I were the only ones who had called into this teleconference.

The parties were clearly informed of the RTB Rules of Procedure Rule 6.11 which prohibits the parties from recording the dispute resolution hearing. The parties confirmed that they understood.

The landlord's agent testified that the tenants were served with their application and evidentiary materials by way of posting the package on the tenants' door on April 14, 2022. The agent testified that this was witnessed by two police officers who attended with them. In accordance with sections 88, 89, and 90 of the *Act*, and the standing order dated March 1, 2021, I find the tenants deemed served with this package on April 17, 2022, three days after posting. The tenants did not submit any written evidence for this hearing.

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 tenants?

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

The landlord provided the following submissions. This fixed-term tenancy began on August 15, 2021, with monthly rent currently set at \$4,600.00, payable on the first of the month. The landlord had collected, and still holds, a security deposit of \$2,300.00.

The landlord applied for an early termination of this tenancy after a targeting shooting took place at the residence in March 2022, and which involves one of the named tenants. The landlord testified that there were at least fifteen bullet holes on the garage door. The landlord testified that they have been in constant contact with the police, who have informed the tenants that they should not attend the residence without police escort. The landlord provided a police file number in the hearing.

The landlord testified that there were other associated incidents, including a vehicle explosion which injured a bystander. The landlord submitted news articles of the incident, one of which names one of the tenants as an involved party of the targeted shooting. The landlord testified that they are extremely fearful following these incidents, and are concerned that the continuance of this tenancy would not only put them at risk, but all those in the area. The police were quoted in one of the news articles stating “Given the most recent attempt made on the life of [tenant’s name withheld for privacy reasons], resulting in injuries to unrelated members of the public – complete innocent bystanders—police warn the public that anyone with [the tenant] or in close proximity to [the tenant] may be putting themselves at great risk, including his own family and friends”.

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 a notice to end the tenancy were given under section 47 for a landlord's notice for cause. 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 evidence and sworn testimony before me, I find that sufficient evidence has been provided to warrant an end to this tenancy for several of the reasons outlined in section 56, as outlined above. I find that the tenants have seriously jeopardized the health or safety or a lawful right or interests of the landlord, and as well as other residents and bystanders in the area. The landlord is seeking an Order of Possession as the landlord is concerned about the nature of the offences that involve serious and violent incidents that have taken place at the residence, and as noted by the police, that pose a significant and ongoing risk to anyone in close proximity to one of the tenants.

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate that "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" for cause to take effect. On this point, I find that the reasons cited by the landlord for circumventing the

standard process for ending a tenancy for cause meet the test required to end this tenancy early as this matter pertains the immediate safety and lawful interests of the landlord and other residents in the area.

The serious nature of offences referenced in the hearing and landlord's application is quite worrisome. I note that the tenants have chosen to not appear at this hearing, nor have they provided any contrasting accounts by way of written evidence.

The main reason for the urgent nature of this application is the immediate risk to the safety and lawful interest of the landlord and residents in the area, and I find that the landlord has provided sufficient evidence to support this. The police have confirmed this risk to the landlord, and to the public as stated in one of the news articles. The landlord has provided evidence to support serious harm has been caused to innocent bystanders due to incidents involving one of the tenants, which highlights the potential volatility that the landlord and others may face if this tenancy continues, as well as the potential for further damage to the property, and risk to everyone's safety.

Under these circumstances, I find that it would be unreasonable and unfair to the landlord for a 1 Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the landlord has provided sufficient evidence to warrant ending this tenancy early. I issue a two day Order of Possession to the landlord.

I allow the landlord's application to recover the \$100.00 filing fee from the tenants. Using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$100.00 of the security deposit in satisfaction of this monetary award.

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 landlord to recover the \$100.00 filing fee by allowing the landlord to retain \$100.00 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: April 29, 2022