



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 April 11, 2022 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 May 19, 2022. 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.

Preliminary Matter – Notice of hearing to the Tenant

The Landlord stated they delivered notice of this dispute hearing to the Tenant by sending it registered mail. They provided proof of this in the form of a registered mail receipt and image of the label showing a tracking number. This included their prepared documentary evidence, as well as a drive with video files they intended to present at the hearing.

From what the Landlord presented 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)(b) the *Act*. I deem service completed by April 27, 2022, as per s. 90(a) of the *Act*. All evidence receives full consideration herein.

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 April 15, 2020 on a month-to-month basis. The rent amount is \$1,000 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 primarily for their two visits to the rental unit in April 2022. The Tenant “verbally assaulted” and actually shoved the Landlord away from the door of the rental unit as captured in one video. According to the Landlord, from one visit to the next, the degree escalated from pushing, through to punching and kicking to the Landlord’s abdomen and shins. This was the Tenant’s reaction when the Landlord visited in answer to their request for repairs.

In the hearing, the Landlord also described the state of the rental unit, ongoing, and the Tenant changing the locks on their own. Their visits to the rental unit require police presence. In their evidence, the Landlord provided a number of messages from the Tenant. As stated in their written summary: “I cannot fulfill my obligations nor exercise my rights under the residential tenancy agreement without subjecting myself to assault by the tenant.”

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 repeated incidents of assault that are increasing in severity and impact. There is also clear evidence of the confrontation from the Tenant leading to hitting and pushing. I find it more likely than not, given this evidence, that the nature and degree of the Tenant's actions increased in severity. This concerns the immediate safety of the Landlord.

I find there is sufficient evidence to show the Tenant was the cause of the incidents in question, that captured on video, and that described in detail by the Landlord in the hearing. This was an assault, and the Landlord provided direct testimony that they contacted the police. I find this is an action that is specified by s. 56(2) above, particularly subsections (a) (i) and (ii).

First, from the evidence I am satisfied that the facts of the situation prove cause. Secondly, I find it unfair for the Landlord to wait for a set-period Notice to End Tenancy to take effect. I find this situation warrants an expedited end to the tenancy where the

Tenant is maintaining 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 Landlord 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: May 19, 2022

Residential Tenancy Branch