



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes ET FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for an early end to the tenancy pursuant to section 56;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:43 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord's application was filed on May 11, 2022. The landlord testified that on May 17, 2022, a copy of the Application for Dispute Resolution including the Notice of Hearing and evidence package were posted to the tenant's door. A witnessed proof of service form was submitted as evidence.

Based on the above, I am satisfied that the tenant was deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

Issues

Is the landlord entitled to an order of possession for an early end to the tenancy?
Is the landlord entitled to recover its filing fee?

Background & Evidence

The rental unit is a 3-storey building containing 18 units. This tenancy began September 21, 2012, and the current monthly rent is \$1049.00 payable on the 1st day of each month.

The landlord testified that the tenant's behaviour has become increasingly erratic and aggressive over the past few months. The landlord has received complaints against the tenant from more than half the 18 other tenants in the building. The landlord submitted that the most recent and serious incident occurred on May 10, 2022 and involved the tenant breaking in the door of another couple in the building who at the time were having dinner with their two-month-old child. The tenant smashed open their door with a cart causing damage to the door and the drywall in behind. The tenant then proceeded to yell at the couple using abusive and racist language. Immediately after the tenant was filmed outside the building where he continued the abuse towards the other couple. A video clip of the incident capturing the tenant outside the building was submitted as evidence. The landlord submits there have been 3 separate police reports involving the tenant. The landlord testified that the other tenants in the building are fearful of their safety to the point of checking if the tenant's vehicle is outside before leaving the building.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord's property;
 - 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

- 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.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a One Month Notice for cause to take effect.

I find that by smashing in the door of another tenant in the building while they were having dinner with their two-month-old child and then proceeding to yell profanities at them, the tenant has significantly interfered with or unreasonably disturbed another occupant of the residential property; seriously jeopardized the health and safety or a lawful right or interest of another occupant; and, put the landlord's property in significant risk. I accept the landlord's testimony and evidence that this was not an isolated incident and that the other tenants in the building are fearful for their safety due to the actions of the tenant.

In the circumstances I find it would be unreasonable, or unfair to the landlord to wait for a One Month Notice for cause to take effect.

Accordingly, I find that the landlord is entitled to an order for possession effective immediately after service on the tenant.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. This amount can be retained from the tenant's security deposit.

Conclusion

I grant an Order of Possession to the landlord effective **immediately** 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.

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: June 13, 2022

Residential Tenancy Branch