



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 landlords' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early and receive an order of possession due to health or safety reasons under section 56 of the Act and to recover the cost of the filing fee.

The landlords attended the teleconference hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. The hearing process was explained and an opportunity to ask questions was provided to the landlords. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Proceeding dated April 27, 2022 (Notice of Hearing), application and documentary evidence were considered. Landlord FW testified that the Notice of Hearing, application and documentary evidence were served personally on each tenant with one package delivered to each tenant with police in attendance and with landlord MH witnessing service on April 27, 2022 at 5:00 p.m. Based on the undisputed evidence before me, I find the tenants were sufficiently served on April 27, 2022. As neither tenant attended the hearing, I find that this matter is unopposed by the tenants.

Preliminary and Procedural Matters

The landlord stated that although the tenants vacated the rental unit on May 6, 2022 and returned the rental unit keys, the landlords remain concerned for their safety. As a result, the landlords are seeking an order of possession should the tenants return to the rental unit.

The landlords confirmed the email addresses for all parties at the outset of the hearing and stated that they understood that the decision would be emailed to the parties. The landlords were also advised that the order of possession and monetary order would be emailed to the landlords only, which must be served on the tenants.

Issues to be Decided

- Are the landlords entitled to end the tenancy early and obtain an order of possession under section 56 of the Act for health or safety reasons?
- If yes, are the landlords also entitled to the recovery of the cost of the filing fee?

Background and Evidence

Landlord FW testified that on April 17, 2022 at 2:30 p.m., the male tenant assaulted him outside of the rental unit by pushing him against a fence and threatening him in Persian that he would harm him more. Landlord FW provided medical records to support that the landlord attended the hospital and was treated for injuries related to the assault.

The landlords are seeking an order of possession in case the tenants decide to return to the rental unit. The landlords confirmed that the tenants failed to pay a security deposit at the start of the tenancy.

Analysis

Based on the undisputed testimony and undisputed documentary evidence provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the male tenant has significantly interfered with or unreasonably disturbed the landlord of the residential property by assaulting the landlord. I find that assault by a tenant on a landlord is unreasonable in any tenancy.

Section 56 of the Act applies and states:

Application for order ending tenancy early

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 the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) 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, in the case of a landlord's application,

(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 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 landlord's 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.**

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

[emphasis added]

I am also satisfied that it would be unreasonable and unfair to the landlords to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the male tenant and the documentary evidence before me to support that the tenant committed assault against the male landlord. Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective **immediately**. I find the

tenancy ended the date of this hearing, **June 10, 2022**, pursuant to section 56 and 62(3) of the Act.

As the landlords' application was successful, I also grant the landlords a **\$100.00** monetary order pursuant to sections 67 and 72 of the Act for the filing fee.

Conclusion

The landlords' application is fully successful.

The tenancy ended this date, June 10, 2022.

The landlord is granted an order of possession effective immediately. This decision will be emailed to the parties. The order of possession will be emailed to the landlords for service on the tenants. This order may be enforced through the Supreme Court of British Columbia.

The landlords are granted a monetary order of \$100.00 for the filing fee. The landlords must serve the tenants with the monetary order and then may file the order in the Provincial Court (Smalls Claims Division). I caution the tenants that they can be held liable for all costs related to enforcement of the monetary order.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*. Pursuant to section 77 of the *Act*, a decision or an order is final and binding, except as otherwise provided in the *Act*.

Dated: June 10, 2022

Residential Tenancy Branch