



Dispute Resolution Services

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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. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the application and evidence submissions on file.

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 tenancy began approximately 7 years ago. The rental unit is an apartment/hotel building. The current monthly rent is \$500.00. The tenant paid a security deposit of \$250.00 at the start of the tenancy.

The resident manager R.A. represented the landlord in the hearing. R.A. submits that the tenant has an ongoing history of aggression, threats, and violence and that his behaviour has become increasingly aggressive over the past few months. R.A. presented testimony and evidence with respect to two recent incidents which he submits are ground for an immediate eviction.

On May 7, 2022, the tenant was involved in a physical altercation with another tenant D.P. The police were called, and they determined it was the tenant that provoked the incident even though it was the tenant that got the worst of the fight. Following the incident, on May 9, 2022, the tenant was issued a final warning letter and advised that he would be evicted if there were any further incidents.

Then on June 13, 2022, the tenant threatened R.A. with a hammer. R.A. testified that he and his partner had returned to the hotel from a dinner out and they passed by the tenant on the way up the stairs. R.A. testified that he said, "excuse me" to get passed the tenant and the tenant pulled out a hammer and said, "I'll fuckin use this". R.A. submitted a picture of the tenant holding a hammer in the stairwell. The police were called again, and the tenant was taken into custody. The charges were later dropped because the police could not locate the hammer used in the incident.

D.P. was called to testify as a witness to the May 7, 2022 incident. D.P. is also a tenant in the building and works at the front desk. D.P. testified that on the date in question he and another tenant were just standing in the lobby area talking. The tenant came at him being verbally abusive and pushed him up against the wall. D.P. testified that he defended himself and took the tenant down giving him two shots to the head. The police were called and they took reports from him and the tenant. Another tenant D.T. witnessed the incident.

The tenant testified that his memory of the May 7, 2022 incident was hazy. He does recall D.P. standing down by the door. The tenant testified that there was also another tenant "Mike" whom he had a fight with before. The tenant testified that it looked like D.P. and Mike were about to scrap. The tenant testified that he was just cheering D.P. on in the fight with Mike and does not know why D.P. broke his nose.

In regard to the June 13, 2022 incident, the tenant testified that he was just returning to the hotel carrying a heavy load up the stairs when R.A. came charging up the stairs beside him. The tenant testified that R.A. looked "scary and threatening". The tenant testified he was afraid due to his previous beatings which is why he pulled out the hammer.

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 the testimony of D.P. to be credible and find that the tenant provoked the fight of May 7, 2022. I find the tenant's testimony that he was only cheering D.P. on in another fight he was in or about to be involved in to not be very credible or supported by any evidence. There was no dispute that the police also found the tenant to have provoked the incident. I also accept the testimony of R.A. to be credible and find that the tenant threatened him with a hammer on June 13, 2022. The tenant's testimony the R.A. looked scary and threatening is just not credible or supported by any facts especially when R.A. would have been coming behind the tenant as per the testimony of both of them. There was no evidence that R.A. yelled at or threatened the tenant in any way as he passed by him in the stairs.

By provoking a physical altercation with another tenant and by threatening the resident manager with a hammer, I find the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property and seriously jeopardized the health and safety or a lawful right or interest of another occupant or the landlord.

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: July 05, 2022

Residential Tenancy Branch