



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 for health or safety purposes, and to recover the cost of the filing fee.

Landlords KS and RS (landlords) attended the 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 parties. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated June 17, 2022 (Notice of Hearing), application and documentary evidence were considered. The landlords provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the tenant by posting to the tenant's door on June 18, 2022 at 1:24 p.m. and was witnessed by third party, MG (witness). Documents served by posting to the door are deemed served 3 days after they are posted pursuant to section 90 of the Act. Based on the undisputed testimony before me, I find the tenant was duly served on June 20, 2022. As the tenant did not attend the hearing, I find this application to be unopposed by the tenant.

Pursuant to Residential Tenancy Branch (RTB) Rules of Procedure (Rules) 7.1, 7.3 and 7.4, the hearing continued without the tenant present. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matters

The landlords confirmed the email addresses of both parties at the outset of the hearing and stated that they understood that the decision would be emailed to both parties.

Issues to be Decided

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

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed-term tenancy began on September 1, 2021 and is scheduled to convert to a month-to-month tenancy after August 30, 2022. The tenant paid a security deposit of \$800.00 at the start of the tenancy.

The landlords write in their application the following:

Tenant messaged not to go near her and turned off the water for 5-6 hours. She also said she will cut / open the pipe and flood the basement. Had to call the cops and she wasn't even cooperative with cops, they said they don't believe whatever she was saying. She refused to pay hydro bill. Upstairs occupants emailed us many times saying they don't feel safe as they occasionally smell plastic burning smell. She also came back from rehabilitation centre in April and we doubt that smell from drugs.

[reproduced as written]

The landlords presented several text messages where the tenant threatens to cut out a piece of pipe and flood the rental unit and to turn off the power. The landlords stated the tenant turned off the power for between 5 and 6 hours. The landlords confirmed they called the police when this occurred on April 28, 2022 and provided a police file number during the hearing.

The landlords stated they would have applied sooner, but they were attempting to have the tenant sign a Mutual Agreement to End Tenancy, which ultimately the tenant refused to sign. The landlords are seeking an immediate end to the tenancy as the

upper tenants went without power due to the tenant turning off their power and the tenant also threatened to cut pipe causing a flood.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant has engaged in illegal activity that is both likely to cause damage and has adversely the quiet enjoyment, security, safety and physical well-being of another occupant of the residential property. I find the illegal activity was Uttering Threats and/or Public Mischief.

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 landlord to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant to be unreasonable and that there is no room in any tenancy for the tenant to threaten the landlord with damage to the rental unit and to shut off power to the rental unit or other areas of the home.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective **July 31, 2022 at 1:00 p.m.** I find the tenancy ended the date of this hearing, July 5, 2022 pursuant to section 62(3) of the Act.

As the landlords' application is successful, I grant the landlord **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act. I authorize the landlord to retain \$100.00 from the tenant's \$800.00 security deposit pursuant to sections 38 and 67 of the Act in full satisfaction of the recovery of the cost the filing fee. I find the tenant's security deposit is now **\$700.00** effective immediately pursuant to section 62(3) of the Act.

Conclusion

The landlords' application is successful.

The tenancy ended this date, July 5, 2022.

The landlords are granted an order of possession effective July 31, 2022 at 1:00 p.m., which must be served on the tenant.

This decision will be emailed to the landlords and the tenant. The order of possession will be emailed to the landlords only for service on the tenant. This order may be enforced through the Supreme Court of British Columbia. I caution the tenant that they can be held liable for all costs related to enforcement of the order of possession.

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: July 5, 2022

Residential Tenancy Branch