



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on August 18, 2022 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk; and
- a monetary order granting the recovery of the filing fee.

The hearing was scheduled for 9:30 A.M. on September 15, 2022 as a teleconference hearing. The Landlord attended the hearing at the appointed date and time. No one appeared for the Tenant. The conference call line remained open and was monitored for 26 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that Landlord and I were the only persons who had called into this teleconference.

The Landlord testified the Application and documentary evidence package was served to the Tenant by posting it to the Tenant's door on August 31, 2022. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence three days later, on September 3, 2022. The Tenant did not submit documentary evidence in response to the Application.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?

2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The Landlord testified that the tenancy began on December 15, 2015. Currently, the Tenant pays rent in the amount of \$660.00 which is due to the Landlord on the first day of each month. The Landlord stated that the Tenant paid a security deposit in the amount of \$307.50 which the Landlord continues to hold. The Landlord stated that the Tenant continues to occupy the rental unit.

The Landlord stated that for the past four months, the Tenant has been uttering threats to the Landlord and other occupants at the rental property. The Landlord described the threats as being unprovoked, explosive and aggressive. The Landlord stated that the Police have been called as the Landlord and other elderly occupants are fearful for their safety.

The Landlord stated that the most concerning incident occurred on August 31, 2022 during which the Tenant attended the Landlord's unit and pounded on the door. The Landlord reluctantly answered the door and was faced with more aggression and threats from the Tenant. The Landlord stated that she had to yell at the Tenant several times to "step back". The Landlord stated that the Tenant stepped back and pulled out a can of bear spray and released the safety, at which point the Landlord slammed the door shut and called Police.

The Landlord stated that she has not yet served the Tenant with a One Month Notice, however, submitted the Application to end the tenancy early because the Tenant's aggressive threats and actions have created an unsafe and risky environment in which the Landlord and other occupants feel unsafe in their own homes. The Landlord is seeking to end the tenancy as a result.

The Landlord stated that she was unable to upload the digital evidence to support her claims, therefore, she provided a written transcript of the Tenant's threats made to the Landlord and other occupants.

Analysis

Based on the unchallenged and documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

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...

- (a) The tenant or a person permitted on the residential property by the tenant had 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 landlords 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.*

The causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for

Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the Tenant must be extreme and require immediate action.

In this case, I find that the Landlord's unchallenged evidence and testimony indicated that the Tenant's aggressive actions and threats have significantly interfered with the Landlord and other occupants at the rental property. While the Tenant's threats are concerning, I find that the Tenant's action to confront the Landlord with bear spray in the Landlord's home demonstrates an elevated level of risk in that the Tenant is willing and able to follow through on his threats.

I find that the Tenant has seriously jeopardized the health and safety or lawful right of another occupant or the landlord. Further, I find it would be unreasonable or unfair to the Landlords to wait for a notice to end the tenancy under section 47 of the *Act*.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenant. In addition, having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in 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: September 15, 2022

Residential Tenancy Branch