



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ET, FFL

Introduction

On February 22, 2023, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

This hearing was scheduled to commence via teleconference at 9:30 AM on March 13, 2023.

S.L. attended the hearing as an agent for the Landlord, and C.S. attended the hearing later as a witness for the Landlord; however, neither Tenant attend at any point during the 67-minute teleconference. At the outset of the hearing, I informed S.L. that recording of the hearing was prohibited, and she was reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

Rule 7.1 of the Rules of Procedure stipulates that the hearing must commence at the scheduled time unless otherwise decided by the Arbitrator. The Arbitrator may conduct the hearing in the absence of a party and may make a Decision or dismiss the Application, with or without leave to re-apply.

I dialed into the teleconference at 9:30 AM and monitored the teleconference until 10:37 AM. Only representatives of the Applicant dialed into the teleconference during this time. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that I was the only other person who had called into this teleconference.

S.L. advised that she served each Tenant with a separate Notice of Hearing and evidence package by attaching them to the Tenants’ door on February 25, 2023. Included were signed proof of service documents corroborating service. Based on this undisputed evidence, I am satisfied that the Tenants were deemed to have received the Notice of Hearing and evidence packages three days after they were attached to the

door. As such, this evidence will be accepted and considered when rendering this Decision.

She then advised that additional evidence was served to the Tenants' by attaching it to their door; however, she was not entirely sure when this was done, or what evidence was specifically served. Regardless of what was actually served, as this additional evidence was served late, and not in accordance with the requirements of Rule 10.2 of the Rules of Procedure, I have excluded this additional evidence and will not consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an early end to this tenancy and an Order of Possession?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

S.L. advised that the tenancy started on October 15, 2022, that rent was currently established at \$3,000.00 per month, and that it was due on the first day of each month. A security deposit of \$1,500.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence for consideration.

She testified that there was a severe security issue because she received many complaints from the strata about "aggressive looking people" in the rental unit and common areas of the building. She stated that one of these people opened a parcel that did not belong to them. As well, she advised that there were complaints from neighbours, who were worried for their safety due to the behaviours of the Tenants or their guests, and she confirmed that one neighbour had already moved out because of it.

She stated that the Tenants bang on the walls, that they fight in the rental unit, and that one of the Tenants assaulted the other; however, there was no documentary evidence

to support this speculation. She submitted that the strata is “pretty sure” that the Tenants are “doing drugs” in the rental unit, and that there are many people “trespassing”, but there was little documentary evidence provided to corroborate any of these allegations.

She raised a number of other issues that were not relevant or would not have met the high threshold to justify an eviction under this type of Application. She also suggested that the Tenants were creating fake banking documents, but she did not submit any documentary evidence to substantiate sufficiently this allegation either.

However, she did advise that a notice was attached to the Tenants’ door on or around February 25, 2023, to enter the rental unit on March 1, 2023. She testified that after they opened the door to the rental unit, a guest of the Tenants aggressively pushed the door against her, preventing her from entering the rental unit. She stated that her hand was damaged due to this assault, that her hand was bleeding from five different points, and that she still cannot straighten her fingers. She stated that she called the police regarding this matter, but they informed her that this was a Residential Tenancy issue. She then stated that she saw this guest in the lobby later, and he threatened her by making a pistol gesture with his hand and pointing it at her head.

C.S. corroborated S.L.’s testimony with respect to the difficulties of the Tenants’ and their guests during the tenancy, and he confirmed that the proper written notice was given to enter the rental unit on March 1, 2023. He testified that when they opened the door, Tenant A.G was aggressive, and that a guest of the Tenants then started shouting that S.L. and C.S. could not enter. He submitted that this guest then pushed S.L. violently, and then forced the door against her, closing it on her hand and crushing it. He stated that they contacted the police, and while they were waiting in the lobby for a response, this same guest of the Tenants made a gun gesture with his hand and pointed it at S.L.’s head.

Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 56 of the *Act* establishes the grounds for the Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. In order to end a tenancy early and issue an Order of Possession under Section 56, I need to be satisfied that the Tenants, or a person permitted on the residential property by the Tenants, have done any of the following:

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

it would be unreasonable, or unfair to the landlord, the tenant 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.

When reviewing the undisputed evidence before me, while there is little documentary evidence to corroborate the testimony provided, based on the consistent testimony from S.L. and C.S., I am satisfied that the Tenants and/or their guests have engaged in a pattern of behaviours that are intentional, inappropriate, hostile, and malicious and would fall into the categories of: significantly interfering with or unreasonably disturbing another occupant or the Landlord and seriously jeopardizing the health or safety or a lawful right or interest of the Landlord. I do not find that any of these behaviours are in any way reasonable, appropriate, or acceptable.

The Landlord must also demonstrate that "it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 for cause" to take effect.

When assessing and weighing the totality of the evidence before me, I find that the pattern of the Tenants' and/or their guests' behaviours, alleged by S.L. and C.S., is consistent and uncontroverted. As such, I accept the Landlord's evidence on the whole, particularly with respect to the assault involving the door on March 1, 2023. Ultimately, I am satisfied that the Tenants and/or their guests have behaved in such an abhorrent manner that should the tenancy continue, it is uncertain how much more dangerous the situation could become.

As such, I find that the ongoing, troublesome behaviours and actions of the Tenants and/or their guests were likely intentional, malicious, and that they pose an unpredictable danger that would likely cause a genuine concern for the ongoing safety of the property and of any persons that may attend the property. Consequently, I am satisfied that these behaviours would fall into the categories of significantly interfering

with or unreasonably disturbing another occupant or the Landlord and seriously jeopardizing the health or safety or a lawful right or interest of the Landlord.

Under these circumstances described, I find that it would be unreasonable and unfair for the Landlord to wait for a One Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the Landlord has provided sufficient evidence to warrant ending this tenancy early. As such, I find that the Landlord is entitled to an Order of Possession.

As the Landlord was successful in this claim, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application. Under the offsetting provisions of Section 72 of the *Act*, I allow the Landlord to retain this amount from the security deposit in satisfaction of that claim.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. Should the Tenants 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: March 13, 2023

Residential Tenancy Branch