



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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. The tenant did not attend this hearing. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord's application was filed on February 10, 2023. The landlord testified that on February 23, 2023, a copy of the Application for Dispute Resolution including the Notice of Hearing and evidence package were posted to the tenant's door. A witnessed proof of service form was submitted as evidence.

Based on the above, I am satisfied that the tenant was deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

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 rental unit is a cabin. The tenancy began September 14, 2022, and the current monthly rent is \$600.00 payable on the 1st day of each month.

The landlord submitted various pictures depicting the condition of the rental unit. The landlord testified there is dog feces and clutter throughout the rental property causing a fire hazard. The landlord testified that the tenant has broken into the power shed and shut off the electricity, cut down neighboring trees and physically assaulted him. The landlord testified that the assault incident occurred on January 28, 2023 and was reported to the police. The landlord submitted a police file number. The landlord testified that the tenant also damaged the landlord's vehicle during this incident. The landlord submitted pictures of his vehicle and testified the tenant ripped the visor off the back window of the vehicle.

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 accept the landlord's undisputed testimony and evidence and find that the tenant has seriously jeopardized the health and safety or a lawful right or interest of the landlord and put the landlord's property in significant risk. I accept the landlord's undisputed testimony and evidence and find the tenant assaulted the landlord on January 28, 2023

and also damaged the landlord's vehicle. I find the rental unit is in a significant state of disrepair and the substantial amount of garbage and clutter in the unit is a potential fire hazard.

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: March 10, 2023

Residential Tenancy Branch