



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ET, FFL

Introduction

On May 24, 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*.

K.L. attended the hearing as an agent for the Landlord; however, neither Tenant attended the hearing at any point during the 27-minute teleconference. He 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 9:57 AM. Only a representative 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. As well, I confirmed during the hearing that neither Respondent dialled in and that I was the only other party who had called into this teleconference.

K.L. advised that a separate Notice of Hearing and evidence package was served to each Tenant by registered mail on May 26, 2023 (the registered mail tracking numbers are noted on the first page of this Decision). He testified that the Tenants contacted him on June 7, 2023, to confirm that they received notification from Canada Post about these packages. As well, he stated that he did not check to see if the Tenants could

view the Landlord's digital evidence prior to sending it pursuant to Section 3.10.5 of the Rules of Procedure.

Based on K.L.'s solemnly affirmed testimony, I am satisfied that the Tenants were deemed to have received the Landlord's Notice and evidence packages five days after they were mailed. As the Landlord did not check about the digital evidence, this evidence has been excluded and will not be considered when rendering this Decision. However, the Landlord's documentary evidence will be accepted and considered 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.

K.L. advised that the tenancy started on August 1, 2020, that rent was originally established at \$1,350.00 per month but was recently increased to \$1,370.25 per month, and that rent was due on the first day of each month. However, the Tenants have not paid the increase in rent since December 2022. A security deposit of \$675 was owed according to the tenancy agreement, but he stated that only \$400.00 of this was paid. A partial copy of the signed tenancy agreement was submitted as documentary evidence for consideration.

He testified that Tenant M.B. assaulted another resident of the building in or around January 2023, and he referenced documentary evidence submitted to support this claim. As well, he advised that he attended the rental unit with an inspector on April 28, 2023, and M.B. then threatened him and attempted to attack him with a stick. He stated that Tenant N.H. pushed M.B. into the bathroom and confined him there so that he could not assault anyone. He referenced an email from the inspector that was submitted as documentary evidence to support this claim.

He then advised that on May 12, 2023, M.B. was outside the building screaming racist and discriminatory remarks, and that this was filmed by another resident of the building. He stated that this person called the police in response to M.B.'s behaviour. He testified that M.B. smashed the glass within the building and broke the intercom as well. He stated that the police attended, that they confirmed that M.B. was negligent for this damage, that they arrested M.B., and that M.B. is facing potential, outstanding charges. He referenced the police report and complaint letters submitted as documentary evidence to support the Landlord's position.

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 consistent and undisputed evidence before me, I am satisfied that the Tenants have, more likely than not, engaged in a pattern of behaviour that was intentional, inappropriate, hostile, and malicious, and would fall into the categories of: significantly interfering with or unreasonably disturbing another occupant or the Landlord, seriously jeopardizing the health or safety or a lawful right or interest of the Landlord, engaging 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, and engaging in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the Landlord. I do not find that 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 Tenants have engaged in such an egregious and abhorrent manner that should the tenancy continue, it is uncertain how much more dangerous the situation could become. It is clear that the Tenants have continued to engage intentionally in troublesome behaviours and actions that were wholly inappropriate, and that these 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.

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 Application, I find that the Landlord is entitled to recover the \$100.00 filing fee. Pursuant to Section 72 of the *Act*, I allow the Landlord to retain this amount from the security deposit in satisfaction of this debt outstanding.

Conclusion

Based on the above, 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: June 13, 2023

Residential Tenancy Branch