



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

The landlords applied to the Residential Tenancy Branch [the 'RTB'] for Dispute Resolution. The landlords ask me for an early end to the tenancy as it would be unreasonable or unfair to the landlords or other occupants to wait for a One-month Notice to End Tenancy for Cause [the 'One-month Notice'] to take effect.

The landlords appeared at the hearing on 24 July 2023. The tenants failed to appear.

Preliminary Matter

I proceeded with this hearing in the absence of the tenants. This is why I did so.

The landlords told me that they served the notice of this hearing on the tenants by personally handing it to them on 17 July. The landlords also said that the tenants reviewed the notice and the other documents provided with it, and handed the package back to the landlords, indicating that the tenants did not want them.

The landlords supported this statement with the statement of a witness who observed the landlords hand the notice to the tenants.

Rule 7.3 of the RTBs Rules of Procedure reads:

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

Relying upon this rule, and satisfied by the submissions of the landlords that the tenants had been properly served with notice of this hearing, I decided to conduct the hearing in the absence of the tenants.

Issue to be Decided

Should the tenancy end early?

Background and Evidence

This rental unit is the basement suite of the home of the landlords. The landlords are parents to teenaged children, who also occupy the family home. The home is located in a family-oriented residential community or suburb.

On 15 June, the tenants moved in. Since then, there have regularly been vehicles coming and going to and from the unit at all hours of the night. The landlords have regularly experienced shouting, banging and loud music, also at all hours of the night. Neighbours of the landlords have complained to the landlords about the tenants.

On one occasion, neighbours called the landlords to say that the tenants were shouting and climbing over their fence, trying to access their yard. The landlords investigated, and found the tenants indeed trying to climb the fence, shirtless, with a bottle of vodka. The tenants appeared drunk.

Later that same day, the tenants were out the front of the house, drunk and shouting lewd remarks at women passing by. The landlords were particularly concerned that their daughter was exposed to this behaviour, and she expressed her fear to them of the tenants. The tenants called the police, as did their neighbours.

In response, the tenants told the landlords that they are criminals; their movements are monitored by ankle bracelets; their friends are criminals; and they are members of various gangs. This frightened the landlords.

The landlords have taken to working from home, to keep their children safe, as this type of behaviour continues. At the insistence of the landlords, the police investigated whether the tenants could be charged criminally, and Crown Counsel have requested further statements from the landlords in order to support charges.

The landlords pointed out that for the ten years in which they have lived in this home, they had never called the police to their house – until these tenants moved in. Since

moving in about six weeks ago, the landlords have had to call the police three times about their behaviour.

In the meantime, the landlords have learned that the tenants are on bail conditions that prevent them from leaving their residence while they await sentencing on (unrelated) charges of robbery, assault causing bodily harm, and uttering threats. Police have told the landlords to not have any contact with the tenants unless in police presence. And they have told the tenants to have no contact with the landlords.

Despite this warning, the landlords have observed (*via* security cameras) the tenants trying to peek in through the door and windows of the main residence.

The landlords told me that they now live in fear, in their own home, of the tenants. They also assert that many of their neighbours, too, fear the tenants.

Since serving the tenants with the notice of this hearing, the landlords have observed this behaviour to be escalating...

Analysis

I accept that, based on the uncontroverted evidence of the landlords, the tenants have probably unreasonably disturbed the landlords and other occupants of their home (*i.e.* their children) *per* section 56 (2) (a) (i) of the *Residential Tenancy Act* [the 'Act']. This section permits the Director to end a tenancy early if a tenant significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

If one needed clarification as to how such disturbances occasioned by the tenants are unreasonable, one could consider the following definition of 'unreasonable': irrational, foolish, absurd, silly, preposterous, senseless, stupid [see paragraph 38 of a decision by the Supreme Court of British Columbia: *Toronto-Dominion Bank v. MacKenzie Apartments Inc*, 2002 BCSC 636 (CanLII)]. The landlords' evidence at this hearing about the conduct of the tenants convinces me that the tenants' conduct is inarguably irrational, foolish, absurd, silly, preposterous, senseless and stupid.

Having found that the tenants did such things, I must now ask whether it would be unreasonable or unfair to the landlords and their children to wait for a One-month Notice to take effect?

It would be. I take notice of the fact that applying to the RTB to end a tenancy based on a One-month Notice would normally consume several months between (a) the time such a notice was issued and (b) a hearing were convened to hear an application based on that notice. This fact is so generally accepted as not to be debated among reasonable persons.

Considering the evidence of the landlords, clearly the police are alarmed at the conduct of the tenants, though they feel incapable of addressing it. This sense of alarm by law enforcement further indicates that it would be unreasonable and unfair to the landlords to wait for a One-month Notice to take effect.

I am satisfied, therefore, that it would be unfair to the landlords and their children to wait further while the tenants continue to engage in disturbing the landlords in this unreasonable fashion. I rule that this tenancy must end.

According to the landlords, the police have told them that they are powerless to deal with the tenants without a decision from the RTB. Now that I have made this decision, one hopes that the police will act to address the tenants' behaviour.

As the landlords have succeeded in their application, I also order that the tenants reimburse them for the cost of filing this application.

Conclusion

I make an Order of Possession in favour of the landlords. This order is effective at 1300 hours on 25 July 2023. The landlords must serve this order upon the tenants. Based on advice from police, the landlords may decide that they will require police assistance to serve this order upon the tenants.

If the tenants or any other occupant of the rental unit fails to comply with my order, then the landlords can file this order with the Supreme Court of British Columbia, and enforce it as an order of that court.

I also order that the tenants pay to the landlords \$100.00 for the filing fee for this application. To give effect to this order, I authorise the landlords to retain \$100.00 of the tenants' security deposit of in satisfaction of this sum *per* section 72 (2) (b) of the Act.

I make this decision on authority delegated to me by the Director of the RTB *per* section 9.1(1) of the Act.

Dated: 24 July 2023

Residential Tenancy Branch