



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover her filing fee for this application from the tenants pursuant to section 72.

The tenants did not attend this hearing, although I waited until 11:16 a.m. in order to enable them to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord's son, in his capacity as the landlord's agent, testified that he posted a copy of the landlord's dispute resolution hearing package including the notice for this hearing on the tenants' door on June 19, 2012 at approximately 6:00 p.m. The landlord testified that she witnessed her son post this notice on the tenants' door at that time and date. The landlord's son also testified that two other people witnessed him post the notice on the tenants' door.

I am satisfied that the landlord served the tenants with notice of the application for an early end to this tenancy in accordance with section 89(2) of the *Act*. Pursuant to section 90 of the *Act*, I find that the tenants are deemed to have been served the landlord's dispute resolution hearing package on June 22, 2012, the third day after the package was posted on the tenants' door.

Issues(s) to be Decided

Is the landlord entitled to obtain an early end to this tenancy and an Order of Possession? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

This periodic tenancy commenced on March 1, 2012. Monthly rent is set at \$975.00, payable in advance on the first of each month. The landlord continues to hold the tenants' \$487.50 security deposit paid on or about March 1, 2012.

The landlord provided undisputed evidence regarding an incident that occurred on June 15, 2012 (and proceeded into the early hours of June 16, 2012). The landlord and her son testified that police were initially called about the activities that were happening in the tenants' basement rental suite that night. After the police left the tenants' rental unit, the landlord and her son testified that some of the tenants knocked on the landlord's door in the main floor unit of this property seeking her son. When she refused to produce him, the landlord and her son testified that those attending from the tenants' rental unit broke glass in the landlord's door, illegally entered her rental unit, knocking her to the floor where she fell on the broken glass. They also gave evidence that those from the tenants' rental unit bear sprayed the outside and inside of the landlord's premises that night. An altercation ensued, police were called and others in the landlords' home, including the son's 90 year-old grandparents, were exposed to this incident. The landlord had to be taken to the hospital where she received 11 stitches to close the wound caused when she fell into the broken glass.

The landlords also entered into written evidence photographs of the damage caused by the tenants and their guests in the June 15, 2012 incident and the evidence of bear spray on doors and walls within the landlord's home. The landlords also entered written evidence of a June 18, 2012 petition signed by seven individuals who reside on this block of their street. These individuals confirmed their understanding of the events of June 15, 2012, and cited additional examples of inappropriate behaviours and activities of those residing in the rental unit. In the landlord's application for dispute resolution, the landlord provided the following description of her reasons for seeking an early end to this tenancy:

My family is in fear of danger of my tenants attacking again. There is elders in my house who also fear for their life.

The landlord and her son expressed fear of the tenants, especially for the son's elderly grandparents who live in the landlord's home and are alone much of the day.

Analysis

Section 56 of the *Act* enables a landlord to apply to end a tenancy early without service of a Notice to End Tenancy when it would be unreasonable and unfair to both the landlord and the other occupants of the residential property to wait for a notice to end tenancy for cause to take effect.

Based on the undisputed evidence of the landlord and her son, I find that since this tenancy began there have been ongoing problems with respect to the behaviours and activities at the rental unit. I find that the tenants have not curtailed this behaviour, even though the police have attended multiple times. While these incidents may call

for the issuance of a 1 month notice to end tenancy for cause, I find that the recent incident involving violence and damage to the landlord's home has raised the conduct to a new level that is frightening to the landlord and her family. I therefore find that it would be unreasonable and unfair to the landlord and her family to wait for a notice to end tenancy for cause to take effect. I allow the landlord's application to end this tenancy early and issue a 24-hour Order of Possession to the landlord.

Section 89(1) of the *Act* establishes the methods by which an application for a monetary award can be served to a party. Posting these types of applications on a tenant's door is not allowed under section 89(1) of the *Act*. As the landlord has not served the tenants with her application for a monetary award in accordance with section 89(1) of the *Act*, I dismiss the landlord's application to recover her filing fee.

Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 24 hours of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I dismiss the landlord's application for the recovery of her filing fee.

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 27, 2012

Residential Tenancy Branch