



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an early end of the tenancy, an Order of possession and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that on September 21, 2012 copies of the Application for Dispute Resolution and Notice of Hearing were sent to each tenant via registered mail at the address noted on the Application. A copy of Canada Post receipts and tracking numbers were provided as evidence of service.

On September 24, 2012, the landlord posted 2 copies of the evidence package to the door of the rental unit. This service occurred at 4 p.m. with a witness present.

These documents are deemed to have been served in accordance with section 89 of the *Act*, however the tenants did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?

Is the landlord entitled to an Order of possession?

Is the landlord entitled to filing fee costs?

Background and Evidence

The tenancy commenced on May 1, 2012. A copy of the signed tenancy agreement was supplied as evidence. The tenants live in a lower suite; the landlord lives in the upper portion of the home.

The landlord attends school and has other female students who live with her.

The male tenant is in his 20's and has caused disturbances to the point that one of the landlord's occupants recently moved out of the home.

The male tenant had been expecting a cheque in the mail and on September 11, 2012, due to repeated requests that the landlord look in the locked mail box, the landlord asked him to cease coming to the door. The male tenant had been at the door that day, swearing at one of the occupants.

The landlord offered to obtain a mail key for the tenants.

On September 18, 2012 the male tenant went to the door of the landlord's unit and was in an agitated state. The female occupant who was at home alone submitted a signed statement which described the incident.

At approximately 12:05 p.m. she was alone when she heard the male tenant yelling and hitting walls in the unit below. He was swearing loudly. The occupant called the landlord and then she prepared to leave the home, as she feared for her personal safety. By 12:29 p.m. the male tenant was pounding on the landlord's door, yelling for the occupant to open the door. He was swearing, threatening and acting in an aggressive manner. The occupant then telephoned her father, who called the RCMP. The police instructed the occupant to stay behind a locked door.

When the police arrived they were able to calm the tenant. The occupant has since moved out of the home as she has felt insecure and unsafe.

The landlord submitted a 2nd signed statement from another female occupant who lives with her. This individual is afraid to be home by herself, as the result of the behaviour of the male tenant. She has heard the male tenant swear, to appear agitated and angry. The occupant states that she is going to need to move out of the home if the male tenant remains in the lower unit.

The landlord said that she understands that the male tenant may have some personal challenges, but that his behaviour has resulted in a loss of a sense of security for her and the other occupants of her home.

Analysis

In order to establish grounds to end the tenancy early, the landlord must not only establish that she has cause to end the tenancy, but that it would be unreasonable or unfair to require the landlord to wait for a notice to end the tenancy under section 47 of the Act to take effect.

Section 56 of the act provides, in part:

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
- (iii) put the landlord's property at significant risk;*
- (iv) engaged in illegal activity that*
 - (A) has caused or is likely to cause damage to the landlord's property,*
 - (B) 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*
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- (v) caused extraordinary damage to the residential property, and*

(b) it would be unreasonable, or unfair to the landlord 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.

Having reviewed the testimony of the landlord and after considering the written submissions, I find that the landlord has met the burden necessary to enforce section 56 of the Act.

The landlord and her occupants have a right to feel secure in their home. The behaviour described by the landlord and in the signed statements support the request for an early end of the tenancy. I find the behaviour of the male tenant, while perhaps the result of matters somewhat beyond his control, has caused an unreasonable disturbance to the occupants and the landlord. One occupant moved out of the home after the September 18 incident and the other occupant continues to be fearful.

Secondly, in the circumstances it would be unreasonable and unfair to require the landlord to wait for a notice to end the tenancy under s. 47, as the level of anxiety the behaviour has caused cannot be tolerated. Therefore; I find that the landlord is entitled to an order for possession that may be immediately served to the tenants.

As the landlord's Application has merit I find that the landlord is entitled to the \$50.00 filing fee cost.

Conclusion

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenants**. This Order may be served on the tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the landlord has established a monetary claim, in the amount of \$50.00 in compensation for the filing fee paid by the landlord for this Application for Dispute Resolution and I grant the landlord a monetary Order in that amount. In the event that the tenants do not comply with this Order, it may be served on the tenants, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 09, 2012.

Residential Tenancy Branch