



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This expedited hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for early termination of a tenancy pursuant to section 56;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord and property manager JW attended the hearing (“the landlord”) and had the opportunity to call witnesses and present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The tenants did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional fifty minutes to allow the tenants the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenants was provided.

The landlord testified the tenants were served with the Notice of Hearing and Application for Dispute Resolution by mailing the documents by registered mail on June 12, 2020, deemed received under section 90 five days later, that is, on June 17, 2020. The landlord provided a picture of the receipt as well as the tracking number in support of service, which is referenced on the first page. As well, the landlord testified that on June 12, 2020, the landlord sent the documents to the tenant RG by email to an address customarily used by the parties in discussing the tenancy and the tenant RG acknowledged receipt by email.

I find the landlord served the tenants on June 17, 2020.

I have only considered and referenced in the Decision relevant evidence submitted in compliance with the Rules of Procedure to which I was referred.

Issue(s) to be Decided

Is the landlord entitled to:

- An order for early termination of a tenancy pursuant to section 56;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

The landlord provided uncontradicted testimony as the tenants did not attend the hearing.

The landlord testified that the parties entered in a month-to-month tenancy agreement which began on January 1, 2020 for monthly rent of \$1,650.00 payable on the first of the month. At the beginning of the tenancy, the tenants gave the landlord a security deposit of \$825.00 which the landlord holds. The landlord testified that her mother lives above the unit.

The tenants paid \$1,095.00 only for rent for the month of April 2020. The tenants have made no payments on rent after this.

The landlord testified that the tenants vacated the unit on or about June 3, 2020, leaving behind damage, old furniture, garbage and discarded items. She stated the unit has foul odours and she is concerned about hygiene and disease. The landlord submitted many photographs supporting her testimony about the condition of the unit.

However, the landlord stated that the tenants gave permission to another person to use the unit; that person(s), who is unknown to the landlord, frequently goes to the unit late at night, seemingly inebriated, pounding on the door of unit and yelling, causing disturbance and fear to the landlord's mother. The landlord fears the unknown person will cause additional damage to the unit.

The landlord stated that the tenants' actions have significantly disturbed the landlord's mother; waiting for a One Month Notice is anticipated to cause additional damage to the unit and disturbance to the occupant of the building. The landlord testified the tenants have failed to respond to email and texts. The landlord submitted copies of many texts and correspondence with the tenants in which the landlord demands an explanation for the abandonment and the subsequent disturbance.

The landlord's evidence was supported by the witness JW.

The landlord requested an Order of Possession and reimbursement of the filing fee.

Analysis

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of the landlord's submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In this case, the onus is on the landlord to establish on a balance of probabilities that they are entitled to an order for an early end of the tenancy.

To end a tenancy early, the landlord must prove that the tenant has done something contrary to section 56 **and** that it would be unreasonable or unfair to the landlord or other occupants to wait for a notice to end tenancy for cause ("One Month Notice"). Section 56 of the Act provides as follows [emphasis added]:

Application for order ending tenancy early

56 (1) *A landlord may make an application for dispute resolution to request an order*

*(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [landlord's notice: cause], and
(b) granting the landlord an order of possession in respect of the rental unit.*

(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.*
- (3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.*

The landlord relied primarily on sections 56(2)(a)(i)(ii) and (iii), that is, that *the tenant or a person permitted on the residential property by the tenant has 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 interest of the landlord or another occupant; and put the landlord's property at significant risk;*

The landlord gave candid, forthright, credible evidence supported by photographs, copies of texts/correspondence, and testimony of the property manager who attended the hearing.

I accept the landlord's evidence that the tenants have vacated the unit leaving behind considerable damage, garbage and debris. I find that the landlord has experienced ongoing disturbance and has a reasonable fear of continued damage to the unit.

I have given significant weight to the oral testimony of the landlord which I find was supported in all key aspects by documentary evidence and the testimony of the property manager who testified at the hearing.

Considering the testimony and evidence, I accept the landlord's testimony supported by the witness JW and compelling documentary evidence. I accordingly find that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property and put the landlord's property at significant risk.

I find that the landlord provided sufficient evidence that it would be unreasonable to wait for a hearing for a One Month Notice, as the testimony and evidence presented by the landlord demonstrated the ongoing disturbance and reasonable fear of further damage occurs daily.

On a balance of probabilities and for the reasons stated above, I find that the landlord's application meets the burden of proof and satisfies all requirements under section 56 of the *Act*.

Accordingly, I allow the landlord's application for an early end to this tenancy and an Order of Possession will be issued as requested on two days notice.

I grant the landlord a monetary award for reimbursement of the filing fee of \$100.00 which I direct the landlord may deduct from the security deposit.

Conclusion

I grant an **Order of Possession** pursuant to section 56 (Early End of Tenancy) to the landlord effective **on two days' notice**. This Order must be served 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 29, 2020

Residential Tenancy Branch