



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 for dispute resolution under the Residential Tenancy Act (Act) for:

- an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act [landlord's notice for cause]; and
- recovery of the filing fee.

The landlord and agent attended the hearing; however, the tenant did not attend.

The agent stated the tenant was served with the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by attaching it to the tenant's door on December 18, 2020.

I accept the landlord's evidence that the tenant was served notice of this hearing in a manner complying with section 89(2) of the Act and the hearing proceeded in the tenant's absence.

The landlord and agent were provided the opportunity to present their affirmed evidence orally and refer to documentary evidence.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the submissions are reproduced here; further, 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 end this tenancy early without the requirement of a One Month Notice to End Tenancy?

Is the landlord entitled to an Order of possession and to recover the filing fee?

Background and Evidence

The written tenancy agreement submitted shows this tenancy began on August 15, 2019 and monthly rent is \$2,200.00. The landlord has other tenants sharing the residential property in another rental unit.

In support of their application, the participants submitted that there is currently a large number of homeless people being seen coming in and out of the rental unit at all hours, possibly living in the rental unit without authority, and engaging in suspicious activity.

Of greater concern is the violent acts which occurred at the property, where gunshots were heard, resulting in two people being taken to hospital. One individual was allegedly assaulted and the other was apparently shot.

The residential property is directly across the street from an elementary school and the police reports show that the attacks were not random.

Filed into evidence were newspaper articles citing the rental unit location as the scene of the gunshots, leading to injuries.

Analysis

Section 56 of the Act applies and states:

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.

[Emphasis added]

Based on the testimony provided during the hearing and documentary evidence, and on a balance of probabilities, I find I am satisfied that the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord and has committed an illegal act that significantly interfered with or unreasonably disturbed other occupants of the residential property.

I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant or an occupant allowed on the property by the tenant, and the documentary evidence before me supports that there was gunfire violence at the residential property, resulting in serious injuries to others at the residential property. I find the evidence supports that criminal activity occurred at the rental unit.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service on the tenant. I find the tenancy ended the date of this hearing, January 14, 2021, pursuant to sections 56 and 62(3) of the Act.

Conclusion

The landlord's application is successful.

The tenancy ended this date, January 14, 2021.

The landlord is granted an order of possession effective two (2) days after service on the tenant.

This order may be enforced through the Supreme Court of British Columbia.

The landlord is entitled to recover the filing fee and he is authorized to deduct \$100 from the tenant's security deposit in satisfaction of this monetary award.

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: January 14, 2021

Residential Tenancy Branch