



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was scheduled to convene at 9:30 a.m. this date concerning an application made by the landlord seeking an order ending the tenancy earlier than a notice to end the tenancy would take effect.

The landlord and the landlord's spouse attended the hearing and each gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The landlord's spouse testified that the tenant was served with notice of this hearing by posting it to the door of the rental unit on May 27, 2021. The Residential Tenancy Branch had scheduled the hearing for June 14, 2021 and the notice hearing was posted to the tenant's door on May 27, 2021. Then the landlord received a corrected notice of hearing from the Residential Tenancy Branch to serve on the tenant, which changed the hearing date to June 17, 2021, which was also posted to the door of the rental unit that day. The record shows the change in date from the Residential Tenancy Branch, and the *Residential Tenancy Act* permits such service, and I accept the undisputed testimony of the landlord's spouse that the tenant has been served in accordance with the *Act*.

The landlord's spouse also testified that the tenant was served with all of the evidence provided for this hearing on June 14, 2021 by giving it to the tenant's girlfriend, who resides with the tenant. All evidence relevant to this application has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that the tenancy should end earlier than a notice to end a tenancy would take effect?

Background and Evidence

The landlord's spouse testified that this month-to-month tenancy began on December 1, 2020 and the tenant still resides in the rental unit. Rent in the amount of \$1,300.00 is payable on the 1st day of each month and there are currently no rental arrears. No written tenancy agreement exists, and the landlord did not collect a security deposit or pet damage deposit from the tenant. The rental unit is a basement suite, and the landlord and spouse reside in the upper level of the home.

The landlord's spouse further testified that the tenant has been violent toward the landlord and the landlord's spouse. On May 15, 2021 the tenant was having drinks with his girlfriend late at night. The landlord asked that they keep the noise down, however the tenant "got into his face" in the landlord's kitchen saying that the landlord could not tell his company to be quiet. When the landlord got in his vehicle to go to work, the tenant wouldn't get out of his way and punched the landlord's truck window. The landlord became concerned about leaving his spouse alone, and called later to ensure she was okay. Police were called later that evening to report the incident.

On May 17, 2021 the Residential Tenancy Branch advised that if the landlord and spouse felt unsafe, they could start a process. The landlord texted the tenant asking about having a conversation about it, but the tenant replied that he didn't have to talk to the landlord, then threatened the landlord's job, saying, "tread lightly; I'll ruin you." He then said to "pop outside, let me explain." The tenant was yelling that he knows tenancy laws and he can stay for free for 6 months. Police were called again.

That day, the landlord served the tenant with a One Month Notice to End Tenancy for Cause by posting it to the door of the rental unit. The landlord's spouse testified that it is dated May 17, 2021 and contains an effective date of vacancy of June 30, 2021, and that the reasons for issuing it state:

- Tenant has allowed an unreasonable number of occupants in the rental unit;
- Tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord;
- seriously jeopardized the health or safety or lawful right or interest of another occupant or the landlord;
- put the landlord's property at significant risk.

The tenant has not served the landlord with an application for dispute resolution disputing the notice.

On May 27, 2021 the tenant returned the first notice of hearing to the landlord with a very large hairy penis drawn upon it, and a copy has been provided for this hearing.

On May 30, 2021 the tenant banged on the landlord's door, not with his fist, but with his shoulder; he was coming in. The landlord's spouse was on the telephone with police while the tenant was yelling profanities, then went outside. Police found him and one officer spoke to the landlord, and the tenant was taken away in handcuffs, and spent the night in jail. More police arrived about a half hour later because the landlord's spouse heard crashing. The landlord's spouse heard the officer tell the tenant's girlfriend that if they had to return, she would be going to jail.

On June 13, 2021 the landlord put rent receipts on the tenant's door, and the tenant yelled at the landlord in the stairwell asking if the landlord was retarded. Police told the landlord and spouse that the tenant was warned about criminal harassment.

The landlord's spouse is fearful that the tenant will enter the landlord's home. The landlord sleeps in the living room to be sure he can hear, and can't go to work, needing to stay home to protect the landlord's spouse and home. There are continuous safety issues unprovoked, and the landlord is on guard all the time.

The landlord testified that the tenant has been tormenting the landlord and spouse for the last month or so in a way where he seems to know where the legal line is; blasting music hours on end and tried to break down the landlord's door. The landlord sleeps in the living room and fears for his wife's safety.

Analysis

The *Residential Tenancy Act* provides that:

56 (1) A landlord may make an application for dispute resolution requesting

- (a) an order 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) an order granting the landlord possession 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.

In this case, the landlord has already served the tenant with a One Month Notice to End Tenancy for Cause, but the effective date of vacancy is still a couple of weeks away. The tenant has not served the landlord with an Application for Dispute Resolution disputing it.

I accept the undisputed testimony of the landlord and the landlord's spouse that the tenant has been tormenting the landlord and spouse, and given the profane drawing on the notice of hearing, and given the number of times police have been called, the tenant clearly has absolutely no respect for the landlord or the landlord's property. I also accept the undisputed testimony that the tenant has tried to break into the landlord's home and spent a night in jail.

In the circumstances, I find that it would be unreasonable and unfair to the landlord and spouse to wait for the notice to end the tenancy to take effect, and I grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlord as against the tenant in that amount. This order may be filed with the Provincial Court of British Columbia, Small Claims division for enforcement.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I hereby grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00.

This order is final and binding and may be enforced.

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 17, 2021

Residential Tenancy Branch