



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASSOCIATED PROPERTY MANAGEMENT (2001)
LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

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;
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on June 16, 2021. The tenant stated that no such package was received and clarified that she was notified of this hearing via an email warning regarding an evidence submission deadline. The landlord provided the Canada Post Registered Mail Customer Receipt and Tracking label as confirmation. As this service was disputed a review of the Canada Post website online tracking system shows that the package was received by Canada Post on June 16, 2021 and an attempted service was made where a notice was left on June 17, 2021 and a subsequent Final Notice was left by Canada Post on June 22, 2021 and as of July 5, 2021 the package is being returned to the sender as "unclaimed" by the recipient. I accept the landlord evidence that the tenant was via Canada Post Registered Mail on June 16, 2021. Despite the tenant not retrieving the package from Canada Post after notice cards were left, the tenant is deemed served as per section 90 of the Act on June 21, 2021. As the tenant does not have a copy of the hearing

package or the submitted landlord's evidence, both parties were advised that if the landlord were to refer to any documentary evidence submitted, the Arbitrator would describe in detail any portion of the evidence to the tenant to allow the tenant an opportunity to respond.

Issue(s) to be Decided

Is the landlord entitled to an early end to the tenancy and an order of possession?

Is the landlord entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on September 14, 2019 on a fixed term tenancy ending on August 31, 2020 and then thereafter on another fixed term or on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated September 4, 2019. The monthly rent was \$2,500.00 payable on the 1st day of each month. A security deposit of \$1,150.00 and a pet damage deposit of \$1,150.00 were paid.

The landlord seeks an early end to the tenancy and to obtain an order of possession as the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord.

The landlord stated that two complaints were received by the Strata regarding a bylaw infraction for an aggressive dog owned by the tenant. The landlord stated that this is a breach of a material term of the tenancy for which the tenant signed a Form K document in acceptance of obeying at the start of the tenancy.

The landlord provided written details which states, Strata complaint: A complaint was received on March 19th of a tan coloured dog jumping at the fence and growling/biting at people and their pets walking by. This causes a concern for neighbouring unit as no aggressive dogs are permitted at Amberhill.

The landlord also stated that subsequent to the March 19, 2021 incident a second incident was reported on March 30, 2021 in which the Strata Council received a report that the tenant's dog jumped the fence and chased a young girl down the street.

The tenant disputes the two claims arguing that her dog is very young at 8 months old and is not vicious. The tenant stated that the dog was only approaching the girl in a friendly manner. The tenant stated that she remembers receiving both letters but cannot recall the contents. The tenant stated that she disputed the claim with the property management but confirmed that at no time has she filed a request for a hearing to answer to the two complaints. The landlord confirmed in her direct testimony that at no time has the tenant filed a request for a hearing to dispute the Strata bylaw infractions. The tenant also claims that the person filing the complaints “has an issue with her” and “is out to get her”. The tenant did not provide any evidence in support of this claim.

Both parties confirmed that prior to the landlord’s application being filed a 1 month notice was served to the tenant which is currently awaiting a hearing date.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord’s application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord’s property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord’s property;
 - 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
 - has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy.

That is the reason for the requirement that the landlord show it would be “unreasonable or unfair” to wait for a cause notice to take effect.

The landlord argues that this matter is now considered an emergency as the tenant’s dog has subsequently been “aggressive” by chasing a young girl after jumping over the fence. The landlord stated that the tenant has refused to remove the dog and the dog continues to be aggressive to others and poses a physical threat.

In this case, I accept the affirmed testimony of both parties and find on a balance of probabilities that I prefer the evidence of the landlord over that of the tenant. Despite the tenant arguing that her dog is young at 8 months and was not being “aggressive”, but “friendly” is unfortunately unsupported. The landlord has submitted 2 separate incident reports on two separate dates of an “aggressive dog” which is contrary to the Strata Bylaws which the Strata received a complaint for each. The landlord provided undisputed affirmed testimony that the tenant was served with these two notice(s) and have never filed for a request for a hearing to ascertain the details from the Strata. On this basis, I find that the landlord has established that an early end to the tenancy is warranted as the tenant’s dog poses a threat against others on the property.

The landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted an early end to the tenancy and an order of possession.
The landlord is granted a monetary order for \$100.00 for recovery of the filing fee.

These orders must be served upon the tenant. Should the tenant fail to comply with the orders, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as orders of those Courts.

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: July 05, 2021

Residential Tenancy Branch