



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On June 15, 2021, the Landlords submitted an Application for Dispute Resolution under Section 56 of the *Residential Tenancy Act* (the “Act”) requesting that the tenancy end early, for an Order of Possession for the rental unit, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 16-minute hearing. The Landlord testified that the Notice of Dispute Resolution Proceeding and related evidence was posted to the Tenant’s door on June 30, 2021. The Landlord also provided a signed Proof of Service and as such, I find that the Tenant is deemed to have received the Notice of Expedited Hearing - Dispute Resolution Proceeding on July 3, 2021, in accordance with Sections 89 and 90 of the Act.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenant did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

Issue to be Decided

Should the Landlords be granted an early termination of the tenancy and receive an Order of Possession, in accordance with section 56 of the Act?

Should the Landlords be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

Background and Evidence

The Landlord provided testimony that 1-year, fixed term tenancy began on June 1, 2021, that the monthly rent is \$1,400.00 and due on the first of each month. The Landlord stated that she collected and still holds a security deposit in the amount of \$700.00. The Landlord testified that the Tenant lives in the upper garage rental unit on the same residential property as the Landlords.

The Landlord stated that there have been three incidents where the Tenant has either significantly interfered with or unreasonably disturbed the Landlords; or, seriously jeopardized the health and safety of the Landlords; or, engaged in illegal activity that has adversely affected the quiet enjoyment, safety and physical well-being of the Landlords.

The Landlord testified that, on June 15, 2021, the Tenant and his girlfriend stole the Landlords' dog from the Landlords' backyard. The incident was captured on video and the police attended to investigate. The Landlord stated the dog was returned to the Landlords later that night.

On June 16, 2021, the Tenant made a post to social media making animal cruelty allegations towards the Landlords. This post resulted in threats made to the Landlords and involved further police intervention.

On July 1, 2021, the Tenant failed to pay rent. The Landlords served a 10 Day Notice to End Tenancy for Unpaid Rent on July 2, 2021 and advised the Tenant he would have to vacate the rental unit by July 15, 2021. The Landlords submitted text messages to document the occurrences when they spoke to the Tenant about showing the rental unit and how the Tenant has responded in an abusive and threatening manner towards the Landlords.

As a result of the Tenant continuing to significantly interfere and unreasonably disturb the Landlords and their family; as well as having engaged in illegal activity that has adversely affected the quiet enjoyment, safety and physical well-being of the Landlords, the Landlords are requesting an early end of tenancy and an Order of Possession.

Analysis

Section 56 of the Act establishes the grounds whereby a Landlord may make an application for dispute resolution to request an end to a tenancy, and to request an Order of Possession on a date that is earlier than the tenancy would end if a Notice to End Tenancy were given under section 47 of the Act. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the Tenant has done any of the following:

- *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 interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *engaged in illegal activity that 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;*
- *engaged in illegal activity that 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, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

The causes for ending the tenancy early, as listed above, are identical to the causes for which a landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the landlord has the grounds to end the tenancy for cause is that when a landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the landlord must also prove that it would be unreasonable or unfair to the landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the tenant must be extreme and require immediate action.

Based on the undisputed testimony and evidence before me, I am satisfied that the Landlords have grounds to end this tenancy for cause, specifically, that the Tenant has engaged in illegal activity, by stealing the Landlords' dog, which has adversely affected the quiet enjoyment, safety and physical well-being of the Landlords.

I find that it would be unreasonable for the Landlord to wait for a Notice to End Tenancy for Cause, under section 47 of the Act, to take effect as there appears to be ongoing threats towards the Landlords, who live on the same residential property.

Therefore, I find that the Landlord has provided enough evidence to justify an early end to this tenancy. As such, I find that the Landlords are entitled to an Order of Possession.

I find that the Landlords' Application has merit and that the Landlords are entitled to recover the cost of the filing fee for this Application for Dispute Resolution, in the amount of \$100.00, pursuant to section 72 of the Act.

As such, I authorize the Landlords to deduct \$100.00 from the security deposit.

Conclusion

Pursuant to Section 56 of the Act, I grant the Landlords an Order of Possession to be effective two days after the Order is served on the Tenant. Should the Tenant 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: July 13, 2021

Residential Tenancy Branch