



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

ET

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has applied to end the tenancy early and for an Order of Possession.

The Agent for the Landlord stated that the Application for Dispute Resolution, the Notice of Hearing, and evidence the Landlord wishes to rely upon as evidence were posted at the rental unit on April 12, 2013. In the absence of evidence to the contrary, I find that these documents have been served in accordance with the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

Is the Landlord entitled to end this tenancy early and to an Order of Possession on the basis that the tenancy is ending early, pursuant to section 56(1) of the *Act*?

Background and Evidence

The Agent for the Landlord stated that the Landlord wishes to end this tenancy early as the Tenant has been throwing bags of urine out of his rental unit. He stated that on four occasions in April of 2013 the Tenant threw a bag of urine out of the window of his rental unit while construction workers were working on a roof below the rental unit; that on two of those occasions the bag hit a construction worker; that several workers informed him and the police that they observed the bags being thrown out of the window of the rental unit; that work in that area has been temporarily halted in an effort to protect the construction workers; that he has spoken with the Tenant regarding the incidents; and that the Tenant denies responsibility.

Written documentation of the incidents, created by the construction company and an agent for the Landlord, were submitted in evidence.

Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy 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* and the landlord may apply for an Order of Possession for the rental unit. Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- 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
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has 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
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

After considering all of the evidence presented by the Agent for the Landlord and in the absence of testimony from the Tenant, I find that the Tenant has thrown bags of urine from the rental unit, two of which have struck a person working at the residential complex. I find that the Tenant's actions have caused the Landlord to temporarily stop construction in the area below the rental unit and I find that it reasonable for the Landlord to refrain from working in that area while the Tenant is living in the rental unit.

I find that it is reasonable to conclude that the Tenant's actions constitute a physical assault and that the Tenant has, therefore, engaged in illegal activity. As this activity has resulted in the Landlord indefinitely delaying repairs to the residential complex, I find that the Tenant has seriously jeopardized the Landlord's right to repair the residential complex. I therefore find that the Landlord has the right to end this tenancy pursuant to section 56(2)(a)(ii) of the *Act*.

Given that the Tenant's actions are preventing the Landlord from making repairs to the rental unit, I find that it would be unfair and unreasonable for the Landlord to wait for a notice to end tenancy under section 47 of the *Act* to take effect.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Dated: April 24, 2013

Residential Tenancy Branch

