



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Victoria Cool Aid Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an application by the landlord for an order ending this tenancy early. The tenant did not appear at the hearing.

The Application for Dispute Resolution and Notice of Hearing were given by the landlord to the tenant's addiction worker on August 20, 2014. This person has one-to-one interaction with the tenant. The next day the addiction worker reported to the landlord that he had personally given the documents to the tenant.

Although it is generally preferable that the person who served the Application for Dispute Resolution and Notice of Hearing on a Respondent provide direct evidence as to when, where and how they gave the documents to the Respondent – either by oral testimony during the hearing or by filing written proof of service in advance of the hearing – section 75 of the *Residential Tenancy Act* does allow an arbitrator to accept hearsay evidence and section 72(1)(c) does allow an arbitrator to order that a document has been sufficiently served for the purposes of the Act on a date that the arbitrator specifies. In light of the circumstances of this case, some of which are more fully described below, I accept the hearsay evidence presented by the landlord and find that the tenant was personally served with the Application for Dispute Resolution and Notice of Hearing by personal service on August 20, 2014.

Issue(s) to be Decided

Does the landlord have grounds to end this tenancy early?

Background and Evidence

The landlord is a non-profit organization that provides housing and other services to homeless and marginalized people. The rental unit is a bachelor apartment in a converted motel. The landlord has staff at the building to provide day-to-day support to the residents and to ensure the security of the building. Many residents, including the tenant, receive addiction and/or medical services from other organizations.

The tenant struggles with mental illness and addictions. She has lived in the rental unit since June 20, 2012. The monthly rent of \$375.00 is paid by the Ministry. The landlord collected a security deposit of \$375.00.

The landlord's evidence is that when the tenant is using she become very ill, very quickly.

The landlord submitted evidence about several serious incidents on May 16, June 4 and July 14 in which the tenant was delusional and violent. On each occasions the police removed the tenant from the building.

Between August 5 and August 13 the staff and other residents of the building observed that the tenant's behaviour was escalating. A series of events over those days culminated with the tenant throwing her belongings – including a large marble table, glassware and cans of soup – into the parking lot, towards the dumpster. This created a very hazardous situation for anyone in the area. The police were called. The tenant came into the lobby screaming and was there when the police arrived. The incident report prepared by the worker on the scene states that “she was threatening to hurt me, spitting on Police, delusional and extremely agitated.”

The landlord states that the tenant's medical/mental health/addiction needs are beyond the services and security they are able to provide at this building and that her behaviour poses a threat to both their staff and the other residents of the building.

The landlord did serve the tenant with a 1 Month Notice to End Tenancy on August 13, 2014, the effective date of which is September 30.

Analysis

Section 56 of the *Residential Tenancy Act* allows an arbitrator to end a tenancy early, upon the application of a landlord, if the 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 the landlord or another occupant;
- put the landlord's property at significant risk;
- caused extraordinary damage to the residential property;
- 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;

and, 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

Based on the evidence provided I am satisfied that 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 the landlord or another occupant;
- put the landlord's property at significant risk; and,

that 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.

The landlord's application for an early end to this tenancy is granted. An order of possession effective two days after it is served on the tenant is granted to the landlord.

As the landlord was successful on its' application it is entitled to reimbursement from the tenant of the \$50.00 fee it paid to file the application. Pursuant to section 38(3) this amount may be retained from the security deposit paid by the tenant, if not paid sooner by the tenant.

Conclusion

An order of possession effective two days after service on the tenant has been granted. If necessary, this order may be filed in the Supreme Court and enforced as an order of that court.

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: August 26, 2014

Residential Tenancy Branch

