



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BC HOUSING MANAGEMENT COMMISSION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

ET

Introduction

This hearing was convened in response to an application for Dispute Resolution made by the landlord on September 24, 2015 for an early end to a tenancy and an Order of Possession under Section 56 of the *Residential Tenancy Act* (the Act).

The hearing was conducted via teleconference and was attended by the landlord and the tenant. This hearing received the landlord's late evidence 5 days before the hearing on October 14, 2015. The tenant acknowledges receiving the application and Notice of Hearing package along with the landlord's document evidence on October 13, 2015 which includes a letter from another tenant of the residential property currently occupied by the respondent, a letter from a physician, and an attachment to a Recognizance of Bail document. The parties participated with their testimony during the hearing.

Issue(s) to be Decided

Has the tenant been provided with the full particulars of this matter in accordance with Section 59 of the Act and the Rules of Procedure for an Early End to a Tenancy? If so,

Is the landlord entitled to an Order of Possession pursuant to 56 of the *Act* without the requirement of one (1) Month Notice to End Tenancy?

Background and Evidence

The landlord in this matter testified they filed for dispute resolution on September 24, 2015 seeking an early end to the tenancy following receipt of some information from a tenant of the residential property stating that one month earlier they had been assaulted by the respondent in this matter: also a tenant of the same residential property. The landlord's application states the respondent was granted bail and that the alleged victim of the assault could not remain in their rental unit. The landlord learned the alleged victim is in secured housing. The respondent tenant testified they currently remain in

their unit. The tenant testified they only recently learned of the landlord's application seeking to immediately end the tenancy based on what they claim are fraudulent allegations and erroneous charges, and, that despite the apparent severity of the charges they will be found innocent. The landlord testified they only recently received the supporting evidence for this matter from the alleged victim in support of their application, and would have given the respondent tenant a 1 Month Notice to End in September 2015 – with an effective date of October 31, 2015 - if they knew earlier their application under Section 56 of the Act would not have been heard sooner than today's date. The respondent tenant testified they had opportunity to view the landlord's application and late evidence but did not have time to formulate a formal response.

Analysis

On review of the submissions in this matter I find as follows.

Section 59(3) of the *Act*, states as follows (*emphasis mine*):

Starting proceedings

59 (3) Except for an application referred to in subsection (6), a person who makes an application for dispute resolution **must** give a copy of the application to the other party within 3 days of making it, or within a different period specified by the director.

Section 66 states as follows:

Director's Orders: changing time limits

66 (1) The director may extend a time limit established by this Act ***only in exceptional circumstances, other than as provided by section 59 (3) [starting proceedings]*** or 81 (4) *[decision on application for review]*.

Dispute Resolution Rules of Procedure, in relevant part for this matter, state as follows:

3.2 Evidence relating to an Early End to a Tenancy.

When a landlord is seeking an early end to the tenancy, the landlord **must** submit to the Residential Tenancy Branch **all evidence with the application for dispute resolution**, or, when applying for dispute resolution online, the next day. All evidence to be relied on at the hearing **must** be served on the respondent with the Notice of Hearing package described in Rule 3.1 *[Documents that must be served]*.

I find the respondent tenant was not provided with the full particulars of this matter in accordance with Section 59(3) of the Act, nor the Rules of Procedure respecting the evidence for this matter and I find the time limit provisions of Section 59(3) applies. As a result, I must **dismiss** the landlord's application in respect to Section 56, *with leave to reapply*. It must be noted it remains available to the landlord to give the tenant a Notice to End in accordance with the Act if they possess sufficient evidence to do so.

Conclusion

The landlord's application is **dismissed**, *with leave to reapply*. The tenancy continues subject to a Notice effective to end the tenancy or an Order of an Arbitrator.

This Decision is final and binding on both parties.

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: October 20, 2015

Residential Tenancy Branch

