



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Women's Resource Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An early end of tenancy and an Order of Possession – Section 56.

I accept the Landlord's evidence that the Tenant was served with the application for dispute resolution and notice of hearing in person on October 21, 2015 in accordance with Section 89 of the Act. The Tenant did not attend the hearing. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

On September 9, 2015 the Landlord served the Tenant in person with a one month notice to end tenancy for cause (the “Notice”). The Tenant did not dispute the Notice that has an effective date of October 31, 2015. The Landlord states that the Tenant has been abusive and aggressive assaulting both staff and other tenants on several occasions.

The Landlord states that it made its application dated October 19, 2015 originally to obtain an order of possession based on the undisputed Notice. These details are included in the application. The Landlord states that on the suggestion of a

representative of the Residential Tenancy Branch the request for an order of possession pursuant to the notice for cause was crossed off in order to obtain an earlier hearing date. It is noted that the Landlord checked the box for an early end of tenancy in the application. The Landlord states that although the Tenant has given the Landlord rent for November 2015, if successful with this application the Landlord will return the rent paid. The Landlord states that it seeks an immediate order of possession.

Analysis

Section 56 of the Act provides that a landlord may make an application for dispute resolution to request an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*]. Although at the time of the application the Landlord was seeking an earlier end to tenancy than the effective date of the Notice, the hearing actually was scheduled for a date after the effective date of the Notice making the application for an earlier date moot. The only difference between requested in an order of possession for cause under section 47 and an Order of Possession on the basis of an early end to tenancy, is that a request is made for an effective earlier than the date that it could be obtained through section 47.

As the details for the application are clearly related to the Notice and not to the request for an effective date earlier than that identified in the Notice, I find that the application in essence is an application for an order of possession based on the Notice.

Section 55 of the Act provides that a landlord may request an order of possession of a rental unit by making an application for dispute resolution where a notice to end the tenancy has been given by the landlord, the tenant has not disputed the Notice by making an application for dispute resolution and the time for making that application has expired. Based on the undisputed evidence of the Landlord I find that the Notice is valid and that the Landlord is therefore entitled to an order of possession.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: November 18, 2015

Residential Tenancy Branch

