



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

City of Vancouver

DECISION

Dispute Codes

ET

Introduction

This hearing was convened by way of conference call in response to the landlord's application for an Order of Possession on an Early End to Tenancy.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; served by posting the hearing package to the tenant's door and sending it by registered mail on February 10, 2017. The tenant was deemed to be served the hearing documents on the third day after they were posted as per section 90(c) of the *Act*.

The landlord's agent (herein after referred to as the landlord) appeared and gave sworn testimony. The landlord was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Preliminary Issues

The landlord advised that the tenant's name is incorrect on the landlord's application. A shortened version of the tenant's name was documented. The landlord did not raise any objections to the tenant's first name being amended to reflect his legal name as shown on the tenancy agreement. The landlord named on the application is an agent for the landlord. The landlord did not raise any objections to the landlord's business name being added to the application. Accordingly, the style of cause for the landlord's Application for Dispute Resolution has been amended to reflect the tenant's legal first name and the and landlord's business name, pursuant to section 64 (3)(c) of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy early and gain an Order of Possession on the basis of this application pursuant to section 56 of the *Act*?

Background and Evidence

The landlord testified that this month to month tenancy started on April 01, 2015. Rent for this unit is \$375.00 per month due on the 1st of each month. The tenant rents a room in this building. The landlord has provided a copy of the tenancy agreement in documentary evidence.

The landlord testified that on February 02, 2017 the tenant has seen burning a sign in the elevator. The tenant was stopped from doing this. A few hours later a member of staff witnessed the tenant lighting newspapers in the building alcove. A member of staff stopped him and managed to put out the fire. The ground and the side of the building were left with scorch marks. The landlord called the police and has provided a copy of the police incident report. This report details the tenant's actions and states that the tenant tried to wash off the marks and then fled on foot. The police located him and he was arrested on a mistaken B&E warrant and transported to jail. The police later arrested the tenant again on February 06 at the hotel.

The landlord testified that the tenant was arrested on a lesser charge than arson and was charged with mischief. He has a non-contact Order through the courts and although he is currently residing elsewhere he still has possession of the room and all his belongings are

located in his room. The tenant is able to come and collect any belongings if he is escorted by the police.

The landlord testified that the tenant was given a room in the building because his mother also lives there and the landlord tried to help the tenant out by giving him a room; however, the tenant became addicted to Crystal Meth and Cocaine and when he was high his behaviour escalated and he vandalized his room and smashed his window. The landlord can no longer tolerate this kind of behaviour and needs to consider the safety of other tenants and staff.

The landlord seeks an Order of Possession to end the tenancy as soon as possible to safeguard the building and other occupants from the tenant's actions.

Analysis

An early end to a tenancy under s. 56(2) of the *Residential Tenancy Act (Act)* is only given in extraordinary circumstances and only when the applicants can show that the situation is so extreme that it would not be reasonable to require the normal one Month Notice to End Tenancy given under section 47 of the *Act*. An early end to tenancy is granted and an Order of Possession for the rental unit is given if the tenant or persons permitted on the residential property by the tenant has done any of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;
- (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) 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
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) caused extraordinary damage to the residential property, and

(b) 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 [*landlord's notice: cause*] to take effect.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I have considered the evidence before me and find the landlord's evidence compelling that the tenant did lit combustible materials against the side of the building and lit a notice on fire in the elevator. Only due to the landlord's agents prompt actions was a fire prevented, which had the potential to cause considerable damage to the building and jeopardize the safety of other tenants. I am also satisfied that the tenant has caused damage in his room.

I am therefore satisfied that it would be unreasonable and unfair for the landlord to wait for a One Month Notice to End Tenancy under section 47 of the *Act* to take effect, as in doing so it may put the landlord's property at further significant risk and may have potential risk of fire for the occupants of the building.

Conclusion

The landlord has been issued an Order of Possession effective **two (2) days** after service upon the tenant, pursuant to section 56(1) of the *Act*. This Order must be served on the tenant. If the tenant remains in Possession of the rental unit and does not relinquish that possession to the landlord then 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: March 06, 2017

Residential Tenancy Branch

