



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NEW CHELSEA SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

ET

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an early end to this tenancy and an order of possession pursuant to section 56.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package via Canada Post Registered Mail on February 2, 2018 and has provided a copy of the Canada Post Customer Receipt Tracking label as confirmation. I accept the undisputed affirmed evidence of the landlord and find that both parties have been properly served with the notice of hearing package and the submitted documentary evidence as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an early end to the tenancy and an order of possession?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on November 1, 2013 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated December 19, 2013.

The landlord seeks an order of possession to end the tenancy early pursuant to section 56 of the Act. The landlord claims that the tenant assaulted the manager and verbally threatened a contracted security guard with physical violence.

The landlord provided undisputed affirmed evidence that the tenant had assaulted the building manager by pushing him and then verbally threatening a contractor (landlord's agent temporarily working as a night security guard) with physical violence. The landlord stated that the police attended and arrest the tenant. The landlord has provided a written statement by the contractor and a copy of a critical incident report completed by the site manager.

The landlord also claims that other unnamed tenants who witnessed the threatening behaviour of the tenant towards the landlord's agent.

The landlord also stated that because of this a full time security guard was hired to ensure the safety of staff and other residents.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- 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;
- caused extraordinary damage to the residential property.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

In this case, the landlord has provided undisputed testimony that the tenant assaulted the landlord and threatened physical violence to another of the landlord's agents. The police subsequently attended and arrested the tenant.

As such, I find that the landlord has on a balance of probabilities provided sufficient evidence that the tenant has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord of the residential property. The tenant is found to have assaulted the landlord and threatened physical violence upon the landlord's agent.

Conclusion

The landlord is granted an order of possession to be effective 2 days after service upon the tenant.

This order must be served upon the tenant. 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: March 02, 2018

Residential Tenancy Branch