



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes ET, FFL

### Introduction

This hearing dealt with an Application for Dispute Resolution (the "Application") that was filed by the Landlord under the *Residential Tenancy Act* (the "Act"), seeking an order ending the tenancy early and recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by two agents for the Landlord (the "Agents"), both of whom provided affirmed testimony. The Tenant did not attend. The Agents were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") state that the respondent must be served with a copy of the Application and Notice of Hearing. As the Tenant did not attend the hearing, I confirmed service of these documents as explained below.

The Agents testified that the Application, the Notice of Hearing, and all of the documentary evidence before me from the Landlord was sent to the Tenant by registered mail at the dispute address on March 18, 2018, and provided a copy of the registered mail receipt in the documentary evidence before me. As a result of the above, and pursuant to sections 88, 89 and 90 of the *Act*, I find that the Tenant was been deemed served with the above noted documents on March 23, 2018, five days after they were sent by registered mail.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure. However, I refer only to the relevant facts and issues in this decision. At the request of the Agents, copies of the decision and any orders issued in favor of the Landlord will be e-mailed to the Agents at the e-mail address provided in the online application system.

### Preliminary Matters

#### **Preliminary Matter #1**

At the outset of the hearing I identified that the Applicant is not the landlord listed on the tenancy agreement. The Agents testified that on May 5, 2017, the property was purchased by a government housing agency and that the Applicant, who is acting on behalf of the government housing agency, took over management of the property at that time.

As a result of the above and in the absence of evidence to the contrary, I find that the Applicant meets the definition of a Landlord pursuant to section 1 of the *Act* as the Applicant permits occupation of the rental

unit under the tenancy agreement and exercises powers and performs duties under the *Act* and the tenancy agreement.

### **Preliminary Matter #2**

Upon review of the documentary evidence before me, I was unable to open four documents and one video file submitted by the Agents on behalf of the Landlord as they were corrupted or submitted in an unsupported file type. As I was unable to open or review these documents, they have been excluded from consideration in this matter.

#### Issue(s) to be Decided

Is the Landlord entitled to an order ending the tenancy early pursuant to section 56 of the *Act*?

Is the Landlord entitled to the recovery of the filing fee pursuant to section 72 of the *Act*?

#### Background and Evidence

The tenancy agreement in the documentary evidence before me indicates that the tenancy began on September 1, 2016, at a monthly rent amount of \$375.00. The tenancy agreement also indicates that a security deposit and a pet damage deposit were paid by the Tenant, which the Landlord still holds.

The Agents testified that they have had continual issues with the Tenant since they took over management of the building and are seeking an Order of Possession and an early end to the tenancy as a result of these issues and a significant violent incident that occurred on March 10, 2018.

The Agents testified that during the week of July 19, 2017, the Tenant was hostile towards staff and refused access to the rental unit for the purposes of installing fire safety equipment which required intervention by the fire department. The Agents testified that on December 15, 2017, agents for the Landlord attempted to complete a pest control inspection but were required to leave the rental unit without completing the inspection due to safety concerns about the aggressive and hostile behavior of the Tenant. The Agents testified that the Tenant's boyfriend also threatened another occupant of the property on January 28, 2018, and submitted a letter from the occupant regarding this threat for my consideration. The Agents stated that despite the fact that the Tenant was sent warning letters after each of the above noted incidents, the behaviour of the Tenant and her boyfriend have not improved.

Further to this, the Agents stated that the Tenant and her boyfriend physically assaulted another occupant and the occupant's elderly mother on March 10, 2018, and provided video evidence of the assault from both CCTV cameras on the premises and other occupants of the building. The Agents testified that the elderly woman appears to lose consciousness during a portion of the video and that police were called regarding the assault. The Agents submitted a police card and file number for my consideration and read me a letter from a witness detailing the aggressive and unprovoked nature of the assault by the Tenant and her boyfriend.

The Agents stated that despite police involvement and numerous previous warnings about behavior, the Tenant and her boyfriend continue to pose a significant risk to the health and safety of staff and other occupants of the property and that another complaint was received only two days prior to the hearing

regarding threats uttered by the Tenant's boyfriend to another occupant. As a result of the serious and violent assault on March 10, 2018, the Agents testified that it would be unreasonable and unfair to the Landlord and the other occupants of the property to wait for a notice to end tenancy under section 47 to take effect.

Although I am satisfied that the Tenant was deemed served Notice of this Hearing on March 23, 2018; the Tenant did not appear at the hearing to provide testimony or documentary evidence for consideration.

### Analysis

Section 56 of the *Act* states the following with regards to ending a tenancy early:

#### **Application for order ending tenancy early**

- 56** (1) A landlord may make an application for dispute resolution to request an order
- (a) 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*], and
  - (b) granting the landlord an order of possession in respect of the rental unit.
- (2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,
- (a) the tenant or a person 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.

The Agents provided significant testimony regarding ongoing issue with the Tenant since July 19, 2017, as well as detailed testimony regarding the assault that took place on March 10, 2018. The video

evidence before me clearly shows a violent assault between a male and female, identified in the hearing by the Agents as the Tenant and her boyfriend, and two other persons, in the courtyard of the complex near the back patio of one of the residences. In the video the persons identified as the Tenant and her boyfriend can be seen physically assaulting the other two persons over a period of several minutes. In the hearing the Agents read a letter from one of the witnesses detailing the aggressive and unprovoked nature of the assault by the Tenant and her boyfriend and the Agents provided police file information regarding this incident.

Based on the testimony and documentary evidence before me for consideration, the Agents have satisfied me on a balance of probabilities that the Landlord has cause to end the tenancy early because the Tenant and a person permitted on the property by the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, and engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property. I am also satisfied that it would be unreasonable or unfair to the landlord or other occupants of the residential property, due to the health and safety risk posed by the Tenant and her boyfriend, to wait for a notice to end tenancy under section 47 to take effect.

Based on the above and pursuant to section 56 of the *Act*, the Landlord is entitled to an Order of possession effective two days after service of the order on the Tenant.

Pursuant to section 72 of the *Act*, the Landlord is also entitled to retain \$100.00 from the security deposit paid by the Tenant in recovery of the filing fee. The balance of the security deposit must be dealt with in accordance with the *Act*.

### Conclusion

Pursuant to section 56 of the *Act*, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with **this Order** as soon as possible. Should the Tenant fail to comply with this Order, this 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: April 12, 2018

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Residential Tenancy Branch