



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened in response to an application by the landlord for dispute resolution pursuant to Section 56 of the *Residential Tenancy Act* (the Act) seeking an early end to a tenancy with an Order of Possession, and recover the filing fee.

The hearing was conducted via teleconference and was attended by the landlord and the tenant. The landlord testified they provided to the tenant all of the evidence they provided to this hearing. The tenant acknowledged solely receiving the landlord's application and Notice of Hearing and denied receiving any other document evidence. The tenant acknowledged they had not advanced document evidence of their own to this matter. The parties participated with their testimony during the hearing.

Issue(s) to be Decided

Pursuant to 56 of the Act, is the landlord entitled to an Order of Possession without the requirement of a 1 Months' Notice to End Tenancy?

Background and Evidence

The parties explained that the tenancy started in July 2013. The tenant resides in the basement of the residential property with their partner TM. The landlord resides remotely from the rental property. The parties disagreed as to how many other people routinely reside in the upstairs unit. The landlord claims up to 4 people reside upstairs. The tenant claims up to 5, for a total of 6 to 7 residents for the residential property. The testimonial evidence submitted by the landlord for seeking an early or urgent end to this tenancy is as follows.

- *The tenant drinks to excess ("gets drunk") and yells and swears loudly*
- *The tenant occasionally turns off the electrical power.*
- *The tenant occasionally turns off the hot water supply.*
- *The tenant's own partner, and the upstairs tenants, ALL have complained to the landlord that the respondent tenant's conduct affects their sleep.*

- *The tenant has stated they are vacating for the last 6 months but have not done so.*

The landlord provided 4 letters purportedly signed by other occupants of the residential property outlining the landlord's claims above. The landlord acknowledged having authored the letters, and had them signed by the other tenants. The tenant testified being surprised on learning during the hearing that her own partner, TM, had signed one of the letters, which they disputed.

The tenant acknowledged that at times they drink alcohol and her voice becomes loud and they might quarrel with their partner. The tenant denied ever turning off the power or hot water supply. The tenant testified that the house is 66 years old and the electrical supply is inadequate for the number of residents and routinely is interrupted when breakers trip. They also testified that the entire house has one hot water tank which periodically and easily becomes depleted. The tenant testified they remain packed and ready to move as soon as possible as they have others engaged in locating alternate housing for them.

The landlord testified providing telephone numbers for the other occupants and sought for them to be called as witnesses. The teleconference operator attempted to contact one of them, TM, but was unsuccessful. The landlord testified that the other potential witnesses were likely at work and possibly unavailable.

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

In the absence of proof from the landlord they served the tenant with their document evidence I have not considered their document submissions in formulating this Decision.

On preponderance of the available and relevant evidence in this matter I find the following. I find that **Section 56** of the Act is two-fold, in that it allows a landlord to request an end to a tenancy and for an Order of Possession without providing a 1 Month Notice to End for Cause, *if the landlord has cause to end the tenancy pursuant to Section 56(2)(a)(i) to (v) and that pursuant to Section 56(2)(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 pursuant to Section 47 to be effective (a 1 month Notice to End).*

Based on the admissible and relevant evidence submitted, I find the landlord has established the tenant likely causes disruption when they consume alcohol. However, I find the tenant's explanation for the power outages and loss of hot water more likely than the landlord's claim the tenant has actively turned these utilities off.

I find the landlord has not provided sufficient evidence to establish sufficient cause to obtain an early or urgent end to the tenancy pursuant to Section 56(2)(a) of the Act. I find that the landlord may have cause to end the tenancy but that they have not provided *sufficient* evidence establishing that it would be unreasonable and unfair to the landlord and other occupants of the residential property to wait for a Notice to End tenancy issued under Section 47 to take effect. As a result, **I dismiss** the landlord's application for an early end to the tenancy. However, the landlord is at liberty to issue the tenant a Notice to End Tenancy in accordance with the Act.

Conclusion

The landlord's application **is dismissed**. The tenancy continues subject to a valid Notice effective to end the tenancy.

This Decision is final and binding.

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 18, 2018

Residential Tenancy Branch