



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MCLAREN HOUSING SOCIETY OF BC
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 agents (the landlord) attended the hearing via conference call and provided affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord provided evidence that the tenant was served with the notice of hearing package for an early end to the tenancy and to obtain an order of possession by posting it to the rental unit door on September 28, 2018. The landlord has submitted in support of this a copy of an amended proof of service document signed and dated September 28, 2018 with a witness. Section 89 (2) of the Act allows for an application filed by the landlord who seeks an order of possession under section 56 by attaching a copy to a door or other conspicuous place at the address at which the tenant resides. As such, I find that the tenant has been sufficiently served and is deemed served pursuant to section 90 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 originally began in September 2015 on a 5 month fixed term tenancy which later became a 1 year fixed term tenancy as per an addendum to the signed tenancy agreement. On March 1, 2015 the tenancy transitioned to a month-to-month basis as per an addendum letter issued by the landlord.

The landlord seeks an early end to the tenancy and an order of possession as the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord. The landlord clarified that on September 19, 2018 an incident report was made because a tenant had reported to staff that “the guy in 403 with the cane hit him with the cane.” The report stated that the tenant’s face was covered in blood. Emergency Services were called. The landlord reports that the tenant did not wish to “press charges because of fear of retribution from” the named tenant. Review of video footage show that the tenant was struck by the named tenant with his cane. A copy of the video was submitted in support of this claim. The landlord stated that because of the violent nature of the incident and the named tenant’s lack of care, the landlord feels that the tenancy must end. The landlord stated that both the named tenant and the victim still reside on the same floor.

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, I accept the undisputed affirmed evidence of the landlord and find that the landlord has established sufficient reasons to an early end to the tenancy. The named tenant assaulted another occupant of the rental unit for no apparent reason. I also find based upon the submissions of the landlord that the named tenant apparently shows no remorse for his actions. I also find that as the tenant/victim still resides on the same floor as the named tenant that it would be unreasonable to wait for a notice to end tenancy for cause to take effect. The landlord’s application for an early end to the tenancy is granted.

Conclusion

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

The tenant must be served with the 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: October 23, 2018

Residential Tenancy Branch