



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT
INC and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FF

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on January 15, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession; and
- an order granting recovery of the filing fee.

The Landlord was represented at the hearing by B.M. and K.E., agents, who provided affirmed testimony. The Tenant did not attend the hearing.

On behalf of the Landlord, B.M. and K.E. testified the Application package was served on the Tenant by registered mail on January 24, 2019. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received 5 days later. Therefore, I find the Application package is deemed to have been received by the Tenant on January 29, 2019.

The Landlord's agents were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

On behalf of the Landlord, B.M. and K.E. testified the tenancy began on July 1, 2015. Rent is due in the amount of \$375.00 per month. The Tenant paid a security deposit of \$187.50, which the Landlord holds.

The Landlord wishes to end the tenancy. On behalf of the Landlord, B.M. and K.E. testified that the Tenant assaulted B.C., a staff person at the rental property, early in the morning on December 21, 2018. They testified that B.C. was performing a repair to another tenant's unit when the Tenant asked him to do something else. When B.C. advised the Tenant that he would get to it after completing his current task, the Tenant choked the staff person to the point of unconsciousness, held him down, and kicked him. Video surveillance evidence depicting the incident was submitted in support.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the affirmed documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*.

The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

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...

(a) The tenant or a person permitted on the residential property by the tenant had 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 landlords 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.*

[Reproduced as written.]

In this case, I find the Tenant assaulted the Landlord's agent on December 21, 2018, as depicted in the video evidence submitted. In doing so, I find the Tenant seriously jeopardized the health or safety or a lawful right or interest of the Landlord. I also find it would be unreasonable or unfair to the Landlord to wait for a notice to end the tenancy under section 47 of the *Act*.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenant. In addition, having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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: February 8, 2019

Residential Tenancy Branch