



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding VICTORIA COOL AID SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

ET

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied to end the tenancy early and for an Order of Possession.

The Agent for the Landlord stated that on June 19, 2019 the Dispute Resolution Package was personally served to the Tenant. The Landlord submitted a proof of service, which is signed by the Tenant, which corroborates this testimony. On the basis of the undisputed evidence I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Tenant did not appear at the hearing.

The Agent for the Landlord stated that she is aware that the Tenant was hospitalized on June 21, 2019 and that he was still in hospital on June 30, 2019. She stated that she does not know if he is currently still in hospital. As the Dispute Resolution Package has been properly served to the Tenant and I have no evidence that the Tenant is currently unable to participate in the proceedings, the hearing proceeded in the absence of the Tenant. The Tenant retains the right to file an Application for Review Consideration if he was unable to attend the hearing.

The Agent for the Landlord affirmed that she would provide the truth, the whole truth, and nothing but the truth at these proceedings.

Issue(s) to be Decided

Is the Landlord entitled to end this tenancy early?

Should the Landlord be granted an Order of Possession on the basis that the tenancy is ending early?

Background and Evidence

The Landlord submitted documents of incidents involving the Tenant. The Agent for the Landlord stated that the Landlord wishes to end the tenancy early on the basis of these incidents, as the Landlord fears for the safety of staff and other occupants. A brief summary of the incidents is listed below.

May 07, 2019:

- Tenant was yelling that a staff member was a “bad person”;
- Tenant was threatening to kill the staff member and all other occupants of the residential complex; and
- The Tenant was holding an uncapped needle at the time.

May 15, 2019:

- Tenant was blocking the front door and refusing to move;
- Tenant was identifying himself as God;
- Tenant told a staff member he could kill the staff member;
- Later this same day the Tenant was inside his room and yelling about burning the building.

June 01, 2019:

- Staff member came to the Tenant’s room to speak with him;
- The Tenant was pointing a butcher’s knife at the staff member; and
- The Tenant threw the knife at the wall.

The Agent for the Landlord stated that:

- On June 01, 2019 the knife was thrown in the direction of the staff member;
- For the safety of staff and other occupants, the Landlord wishes an immediate end to the tenancy; and
- The Landlord has accommodations available for the Tenant at another shelter which has more staff support.

Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and the landlord may apply for an Order of Possession for the rental unit. Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that 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
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

On the basis of the undisputed evidence I find that the behaviour of the Tenant in the incidents cited has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord. Specifically, I find that his behaviour poses a potential safety risk to staff members and other occupants of the residential complex. I therefore find that there are grounds to end this tenancy early, pursuant to section 56(2)(a) of the *Act*.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

Given the potential safety risks established by the evidence, I find that it would be unreasonable in these circumstances to wait for a notice to end the tenancy under section 47 to take effect. I therefore grant the Landlord an Order of Possession that is effective immediately. I find it reasonable to grant an Order that is effective immediately, as the Landlord is able to provide the Tenant with alternate accommodations.

Conclusion

I grant the Landlord an Order of Possession that is effective immediately. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

Dated: July 02, 2019

Residential Tenancy Branch