



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA WOMEN'S RESOURCE SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for emergency early end to tenancy, pursuant to sections 55 and 56; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:44 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The program manager and the director of the residential program (the "landlord's agents") attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord's agents and I were the only ones who had called into this teleconference.

The program manager testified that the landlord's application for dispute resolution was posted on the tenant's door on January 8, 2019. A witnessed proof of service document stating same was entered into evidence. I find that the tenant was served in accordance with section 89 of the *Act*.

Issues to be Decided

1. Is the landlord entitled to an Order of Possession for emergency early end to tenancy, pursuant to sections 55 and 56 of the *Act*?

2. Is the landlord entitled to recover the filing fee from the tenant, pursuant to section 72 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord's agents, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord's agents provided the following undisputed testimony. This tenancy began on April 1, 2019; however, the tenant lived in a different unit in the same building prior to the beginning of this tenancy. Monthly rent in the amount of \$375.00 is payable on the first day of each month. A security deposit of \$375.00 was paid by the tenant to the landlord. A written tenancy agreement was signed by both parties and a copy was submitted for this application.

The landlord's agents testified to the following facts. On January 5, 2019 the tenant assaulted another tenant (the "neighbor") when the neighbor knocked on the tenant's door. Video stills showing the assault were entered into evidence. The program manager testified that the tenant received a warning letter regarding the January 5, 2019 incident, which was entered into evidence.

The landlord's agents testified to the following facts. In April of 2019 the tenant threatened staff with bear spray and spat at staff. A video still showing the tenant spitting was entered into evidence. The program manager testified that the tenant received a warning letter regarding the April 2019 incident, which was entered into evidence.

The landlord's agents testified to the following facts. On November 25, 2019 the tenant entered the room of another tenant and assaulted her while she slept. Video stills showing the tenant entering and exiting the other tenant's room were entered into evidence. A few minutes after the assault the victim reported the assault to staff. The landlord entered into evidence a witness statement from a support worker who confirms that the victim reported the assault shortly after it occurred, and that the victim's ear looked red and swollen. After the assault the tenant received a One Month Notice to End Tenancy for Cause which was entered into evidence.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- *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 interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *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;*
- *engaged in illegal activity that 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, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

An early end of tenancy is an expedited and unusual remedy under the *Act* and is only available to the landlord when the circumstances of the tenancy are such that it is unreasonable for a landlord to wait for the effective date of a notice to end tenancy to take effect, such as a notice given under Section 47 of the *Act* for cause. At the dispute resolution hearing, the landlord must provide convincing evidence that justifies not giving full notice.

Based on the testimony of the landlord's agents, the video stills and the warning letters entered into evidence, I find that the landlord has proved that the tenant has a history of violence towards both staff and other tenants. I find that this violence has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property. I find that it is unreasonable to require the landlord to wait for a

hearing to be set based on the One Month Notice to End Tenancy for Cause as the tenant has shown a pattern of violent behavior and it is more likely than not that she could assault another tenant or staff member if this tenancy continues longer than is absolutely necessary.

As the landlord was successful in its application for dispute resolution, I find that it is entitled to recover the \$100.00 filing fee from the tenant, pursuant to section 72 of the *Act*.

Section 72(2) of the *Act* states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit or pet damage deposit due to the tenant. I find that the landlord is entitled to retain \$100.00 from the tenant's security deposit.

Conclusion

Pursuant to section 55 and 56 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service on the tenant**. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

Pursuant to section 72(2) of the *Act*, the landlord is entitled to retain \$100.00 from the tenant's security deposit.

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: January 21, 2020

Residential Tenancy Branch