



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for an order to end the tenancy early and receive an order of possession pursuant to section 56 of the Act for health and safety reasons, and to recover the cost of the filing fee.

The landlord and a witness for the landlord SG (witness) attended the hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. The hearing process was explained and an opportunity to ask questions was provided to the landlord.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated March 17, 2020 (Notice of Hearing), the application and documentary evidence were considered. The landlord provided affirmed testimony and a signed Proof of Service document that the Notice of Hearing, application and documentary evidence were served on the tenant by personal service on March 18, 2020. Based on the undisputed testimony and the undisputed documentary evidence, all of which I find support the landlord's testimony, I find the tenant was sufficiently served on March 18, 2020.

As the tenant did not attend the hearing, I consider this matter to be unopposed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matter

The landlord confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. As the landlord did not have an email address for the tenant, the decision will be sent by regular mail to the tenant.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession pursuant to section 56 of the Act for health and safety reasons?
- Is the landlord entitled to the recovery of the cost of the filing fee under the Act?

Background and Evidence

The landlord provided a copy of the tenancy agreement. A month to month tenancy began on January 1, 2020. The landlord testified that the tenant failed to pay a security deposit.

The landlord testified that the tenant has threatened to kill other tenants and requested to call the witness to testify. The witness, SG, was affirmed and testified that last month the tenant knocked on her door between 2:00 a.m. and 3:00 a.m. and was mad. The tenant then asked her if she wanted to party and she stated she did not know what the tenant was talking about. The witness testified that the tenant then said to her, "I am going to burn this place down" and the witness was very scared. In addition, the witness stated that she has personally witnessed the tenant tell others to kill themselves. The witness stated that the tenant is a scary person and she fears for her safety.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony provided during the hearing, and on a balance of probabilities, I am satisfied that the tenant has engaged in illegal activity that has adversely affected and is likely to adversely affect the quiet enjoyment, security, safety and physical well-being of another occupant of the residential property.

Section 56 of the Act applies and states:

Application for order ending tenancy early

56(1) A landlord may make an application for dispute resolution to request an order

- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
- (b) granting the landlord an order of possession in respect of the rental unit.

(2) 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, in the case of a landlord's application,

- (a) the tenant or a person permitted on the residential property by the tenant has 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 landlord's 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.**

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

[Emphasis added]

I am also satisfied that it would be unreasonable and unfair to the landlord and other tenants in the rental home to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant to be unreasonable as I find there is no room in any tenancy for threats of arson or death.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after on the tenant. I find the tenancy ended the date of this hearing, April 6, 2020 pursuant to section 62(3) of the Act.

As the landlord's application is successful, I grant the landlord a monetary order pursuant to section 67 of the Act in the amount of **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act.

Conclusion

The landlord's application is successful.

The tenancy ended this date, April 6, 2020. The landlord is granted an order of possession effective two (2) days after service on the tenant. This order of possession granted pursuant to section 56 of the Act can be enforced under *Ministerial Order M089* issued March 30, 2020 pursuant to the State of Emergency declared on March 18, 2020.

This decision will be emailed to the landlord and sent by regular mail to the tenant. The order of possession and monetary order will be emailed to the landlord for service on the tenant. This order may be enforced through 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 *Act*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 6, 2020