



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PCPM LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for early termination of a tenancy pursuant to section 56;
- Authorization to recover the filing fee for this application pursuant to section 72.

The agents NA, NM and BA attended for the landlord (“the landlord”). The landlord had the opportunity to call witnesses and present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional forty-five minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

At the outset, the landlord requested an amendment to the name of the landlord to reflect the correct corporate name. Accordingly, the proceedings are amended throughout.

I have only considered and referenced in the Decision relevant evidence submitted in compliance with the Rules of Procedure to which I was referred.

The landlord testified that the tenant was served with the Notice of Hearing and Application for Dispute Resolution in compliance with the Act. The landlord testified the landlord served the tenant by registered mail sent on June 9, 2020 and deemed received five days later, on June 14, 2020, pursuant to section 90. The landlord provided the tracking number for the registered mail in support of service to which reference is made on the first page.

Further to the provisions of the Act and in consideration of the undisputed testimony of the landlord, I find the landlord served the tenant as required on June 14, 2020.

Issue(s) to be Decided

Is the landlord entitled to the following:

- An order for early termination of a tenancy pursuant to section 56;
- Authorization to recover the filing fee for this application pursuant to section 72.

Background and Evidence

The landlord provided the following uncontradicted testimony as the tenant did not attend the hearing. The tenancy began on June 3, 2018. Rent is \$917.00 payable on the first of the month. The tenant provided a security deposit of \$447.50 which the landlord holds.

The landlord submitted a copy of the signed tenancy agreement. The landlord explained the unit is on the ground floor of an apartment building with 63 apartments. Many of the apartments are occupied by families.

The landlord submitted considerable oral testimony as well as supporting documents. These included copies of multiple letters of complaint from other occupants of the building, statements from the property manager, many letters of warning to the tenant, tenant incident reports, a FOI request form the police and a two-page itemized list of main events and documents.

The key points of the landlord's evidence are as follows:

1. Throughout the tenancy, the tenant has exhibited disturbing behaviour, such as creating noise at night upsetting to neighbours who report being unable to sleep,

allowing people who appear intoxicated to enter his unit through the ground floor window, chaining his bicycle and cart so as to block entrance to the building, repairing the bicycle/cart in hallways blocking passage, and acting in a threatening manner to staff;

2. The landlord repeatedly warned the tenant; copies of many letters to the tenant, incident reports and complaints by other occupants were submitted.
3. On January 29, 2020, the tenant was responsible for a fire in his unit; the emergency fire and police responded;
4. The landlord attended at the unit during the fire and observed the unit was filled with items making passage into and through the unit difficult;
5. The landlord observed that the police found a gun which they removed;
6. Since this time, the tenant's behaviour has worsened, the landlord suspecting that the tenant is under the influence of alcohol or drugs and unable to remember events;
7. The tenant's friends have continued to gain entrance to the unit and have broken into neighbouring units occupied by families with children; the landlord assumed they are so intoxicated they are unable to ascertain which is the tenant's unit;
8. The landlord's agent NM testified she is afraid for her safety, that the tenant has developed a menacing appearance and attitude; for example, she stated he will continue moving towards her during a conversation, once while carrying a chain, causing her to back up and feel intimidated and anxious;
9. The tenant has refused to allow the landlord to inspect his unit; the landlord has observed that the tenant can barely open the door because of the amount of objects in the unit, pushing against the door;
10. On February 7, 2020, the landlord issued a One Month Notice to the tenant to vacate for cause which the tenant did not dispute; nevertheless, the tenant refused to vacate and during the State of Emergency, the landlord testified to being unable to apply for an Order of Possession.
11. After the issuance of the One Month Notice, the tenant's behaviour became unreasonably unpredictable;
12. The landlord observed the tenant with mysterious personal property and engaging in activities leading the landlord to conclude the tenant is dealing drugs and buying/selling stolen property.

The landlord requested an Order of Possession based on section 56 of the Act as follows:

The tenant has:

- (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;*

The landlord stated that it was unreasonable or unfair to the landlord and the other occupants to wait for a One Month's Notice to take effect under section 47 (landlord's notice).

The landlord requested an Order of Possession and reimbursement of the filing fee.

Analysis

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of the landlord's submissions and arguments are reproduced here. The admissible, relevant and important aspects of the landlord's claims and my findings are set out below. I have only considered and referenced in the Decision relevant evidence submitted in compliance with the Rules of Procedure to which I was referred.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In this case, the onus is on the landlord to establish on a balance of probabilities that they are entitled to an order for an early end of the tenancy.

To end a tenancy early, the landlord must prove that the tenant has done something contrary to section 56 **and** that it would be unreasonable or unfair to the landlord or other occupants to wait for a notice to end tenancy for cause ("One Month Notice"). Section 56 of the Act provides as follows [emphasis added]:

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.

The landlord relied primarily on sections 56(2)(a)(i)(ii) and (iii), that is, that *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, seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant; and put the landlord's property at significant risk;*

The landlord gave candid, forthright, credible evidence supported by warning letters, letters of complaint from occupants, and written submissions. The landlord's evidence is that the tenant was responsible for a fire which occurred in the unit on January 29, 2020

during which a firearm was seized by the police, the tenant is increasingly behaving erratically and threateningly, and the landlord's staff are afraid of him.

I gave significant weight to the oral testimony of the landlord which I find was supported in all key aspects by documentary evidence and the testimony of the agents who testified at the hearing. The agents were believable, professional, experienced witnesses and property managers who articulately described the series of events leading them to make an urgent request that the tenancy be terminated.

I find the landlord and the witness NM have a justified fear for the personal safety of the staff, particularly NM.

Considering the testimony and evidence, I accept the landlord's testimony supported by the witnesses and compelling documentary evidence. I accordingly find that the landlord has met the burden of proof that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, and seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant. I find the evidence of the fire, the possession of a gun, the accelerating belligerent behaviour, and the conduct of the tenant's acquaintances to amount to "significant interference" and "unreasonable disturbance" as well as "seriously jeopardizing the safety" of the landlord and the occupants of the building.

I find that the landlord provided sufficient evidence that it would be unreasonable to wait for a hearing for a One Month Notice, as the testimony and evidence presented by the landlord demonstrated a significant risk to the witness NM and the landlord's property. I believe the credible and reasonable testimony of the landlord and the witness AG that they have a reasonable fear of harm to people and property.

On a balance of probabilities and for the reasons stated above, I find that the landlord's application meets the burden of proof and satisfies all requirements under section 56 of the *Act*.

Accordingly, I allow the landlord's application for an early end to this tenancy and an Order of Possession will be issued.

I grant the landlord a monetary award for reimbursement of the filing fee of \$100.00 which I direct the landlord may deduct from the security deposit.

Conclusion

I grant an **Order of Possession** pursuant to section 56 (Early End of Tenancy) to the landlord effective on two days notice. This Order must be served 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

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: July 03, 2020

Residential Tenancy Branch