



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ABORIGINAL HOUSING SOCIETY OF PRINCE
GEORGE and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

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 due to health or safety reasons under section 56 of the Act.

Two agents for the landlord, TG and SB (agents) attended the teleconference 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 agent. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated June 15, 2020 (Notice of Hearing), the application and documentary evidence were considered. The agents provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the tenants by posting to their door and by email. Documents posted to the door and sent by email are deemed served three days after they are posted or mailed pursuant to section 90 of the Act and the State of Emergency email service guideline. I find the tenants were deemed served on June 18, 2020 and as they did not attend the hearing, I consider this matter to be unopposed by the tenants and the hearing continued without the tenants present in accordance with the Rules of Procedure.

Preliminary and Procedural Matter

The agents confirmed the email addresses for both parties at the outset of the hearing and stated that they understood that the decision would be emailed to both parties.

Issue to be Decided

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

Background and Evidence

The agents testified that the tenants have assaulted a neighbouring tenant (victim) by pulling the victim's hair and throwing the victim down the stairs. The agents also stated that the tenants have kicked a small dog causing it to bleed and most recently, the male tenant was publicly masturbating and referred to a photo in evidence showing the tenant with his penis in his hand. The agents stated that the photo was taken by a family living directly across from the tenants who had small children over that night and that the RCMP were called as a result.

Analysis

Based on the testimony provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenants has seriously jeopardized the health or safety or a lawful right or interest of the landlord and has committed an illegal act, assault, that has jeopardized the landlord's lawful right of attended the rental property to deliver a notice to the tenant.

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 to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenants and the documentary evidence before me to support that the tenant assaulted a neighbouring tenant, kicked a small dog causing it to bleed, and the photo evidence supports that the male committed a criminal act of an indecent act.

Section 173(1) of the Criminal Code states:

173(1) **Everyone who wilfully does an indecent act in a public place in the presence of one or more persons, or in any place with intent to insult or offend any person, (a) is guilty of an indictable offence** and is liable to imprisonment for a term of not more than two years;

[Emphasis added]

In addition, section 266 of the Criminal Code states:

266 Every one who commits an **assault** is guilty of (a) an indictable **offence** and **is liable to imprisonment for a term not exceeding five years**; or (b) **an offence punishable on summary conviction**.

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 tenants. I find the tenancy ended the date of this hearing, July 7, 2020 pursuant to sections 56 and 62(3) of the Act.

Conclusion

The landlord's application is successful.

The tenancy ended this date, July 7, 2020.

The landlord is granted an order of possession effective two (2) days after service on the tenants.

This decision will be emailed to both parties. The order of possession will be emailed to the landlord for service on the tenants. 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: July 7, 2020

Residential Tenancy Branch