



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding The Society of Hope
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an early end to this tenancy and an Order of Possession pursuant to section 56.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by its agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with the notice of hearing and evidence by posting on the rental unit door on July 7, 2020 and subsequently sending by registered mail on July 8, 2020. The landlord provided a signed Proof of Service form and Canada Post tracking information as evidence of service. Based on the evidence, I find that the tenant is deemed served with the landlord's materials on July 10, 2020, three days after posting, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end of tenancy and Order of Possession?

Background and Evidence

This periodic tenancy began in October, 2018. The rental unit is a suite in a multi-unit seniors complex providing housing for low-income residents. The building with the rental unit has approximately 40 individual units and a lobby common area.

The landlord submits that during recent months the tenant has appeared nude in the common area and parking lot for the building, has emptied their colostomy bag into shared garbage receptacles or the floor of the building and has had charged interactions with other occupants. The landlord submitted into evidence warning letters, written complaints and security video footage showing the tenant's activities in the common area.

The landlord submits that the tenant's behaviour is unsanitary, unsafe and is a health hazard for the other seniors occupying the rental unit as well as the staff. The landlord testified that they have issued warning letters to the tenant and have attempted to engage them in rectifying their behaviour but the tenant has been unreceptive.

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.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

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.

Based on the evidence, I find that the landlord has provided sufficient evidence to show that the tenant has unreasonably disturbed the other occupants of the property and their behaviour is a source of seriously jeopardy to the health and safety of others.

I find that the act of emptying colostomy bags in common areas or on the floor is an inherently unhygienic and unsafe act that causes jeopardy to the health of others. I accept the landlord's evidence including their testimony and photographs that the tenant is appearing nude or semi-nude in the common areas of the rental building and is emptying their colostomy bag and other refuse onto the floor, ground and shared garbage receptacles. I accept the landlord's evidence that this behaviour has significantly disturbed the other occupants, to find a naked man in the common lobby or to find their refuse.

I find that it would be unreasonable and unfair to the other occupants of the rental unit to allow this conduct to continue and to wait for a notice to end tenancy under section 47 to take effect.

Accordingly, I issue an Order of Possession to the landlord pursuant to section 56 of the Act.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant or anyone on the premises 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 31, 2020

Residential Tenancy Branch