



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Makola Housing Society and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application for dispute resolution under section 56(1) and (2) of the Residential Tenancy Act (Act) for:

- an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act [landlord's notice for cause].

The landlord submitted evidence that the tenant was personally served the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) on July 30, 2020. I find the tenant was sufficiently served the landlord's application in compliance with section 89(1) of the Act.

The landlord's agents and the tenant attended both parties were provided the opportunity to present their affirmed testimony and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters-

The tenant did not call into the teleconference hearing until 4 minutes after it had started. He said his phone was acting up and he was not sure he would be able to stay in the hearing.

I informed the tenant of the landlord's testimony prior to his participation. The landlord then completed the balance of his submissions and the tenant, in turn, provided his full response to the landlord's application. The tenant also confirmed receiving the landlord's evidence and that he had not provided evidence.

After the tenant finished his testimony, he exited the hearing. I concluded the tenant's phone was the cause.

Issue(s) to be Decided

Has the landlord met the burden of proof to end this tenancy early without the requirement of a One Month Notice to End Tenancy?

Is the landlord entitled to an Order of Possession of the rental unit?

Background and Evidence

The landlord filed into evidence a copy of the written tenancy agreement showing this tenancy started on December 1, 2018. The landlord's agent said the rental unit was one of a 39 unit residential property and the rental unit was brand new in 2018 when the tenancy started.

In support of their application, the landlord submitted that the tenant used a blowtorch in an attempt to exterminate a perceived bug issue in the rental unit. Additionally, the landlord submitted that the tenant has saturated his rental unit with pesticides and bleach.

The landlord said that the tenant has destroyed his bathroom by using the blowtorch and has damaged the rest of the rental unit with the blowtorch.

The landlord said that they hired a pest control company to inspect the rental unit and no bugs were found.

The landlord said that the tenant is a serious danger to himself and the safety of the other tenants in the building. The landlord submitted that the tenant was in a serious state of psychosis and the RCMP were called to do a wellness check, following which, the tenant was taken to the hospital.

The landlord filed into evidence the photographs of the bathroom and incident reports.

Tenant's response –

The tenant confirmed he did use a blow torch to exterminate the bugs, as the rental unit was infested. The tenant said he did not alert the caretaker of the pest control issue, due to the caretaker's health issues.

The tenant said he has completely repaired the rental unit and it was back to where it had been. The tenant also confirmed he had soaked the whole apartment with the insecticide because he needed to get rid of the bugs.

Analysis

Based on the testimony the landlord and the tenant provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or an occupant of the residential property and put the landlord's property at significant risk.

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 find the actions of the tenant in using a blowtorch on the walls, baseboard, vanity, bath tub and doors, leaving serious burn marks and destruction of property, has not only put the landlord's property at serious risk, but also seriously jeopardized the health and safety or a lawful right or interest the other occupants in the residential property.

The photo evidence supports that the bathroom was completely destroyed and will need to be entirely replaced.

I find the landlord must be granted an order of possession of the rental unit to protect the safety of the other tenants in the building.

As such, 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.

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 service on the tenant. I find the tenancy ended the date of this hearing, August 10, 2020 pursuant to sections 56 and 62(3) of the Act.

Conclusion

The landlord's application is successful.

The tenancy ended this date, August 10, 2020.

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

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: August 10, 2020

Residential Tenancy Branch