



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Asia Pacific Investors Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on August 31, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk; and
- a monetary order granting the recovery of the filing fee.

The Landlord's Agent, and the Tenant attended the hearing at the appointed date and time. J.H. attended the hearing briefly, stating that he was the Tenant's advocate, however, during the hearing, the Tenant indicated that he was not an advocate, but was her guest who was the source of the Landlord's cause to end the tenancy. As such, J.H. disconnected himself from the teleconference hearing and did not contribute to the hearing.

At the beginning of the hearing, the parties acknowledged receipt of their respective application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified that the tenancy began on August 1, 2018. Currently, the Tenant pays rent in the amount of \$675.00 which is due to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$375.00 which the Landlord continues to hold. The Tenant continues to occupy the rental unit.

The Landlord's Agent stated that the Tenant and her guest have pulled the fire alarm at the rental property on August 20 and 22, 2020 causing the entire building to evacuate until the Fire Department attended the clear the rental property. The Landlord stated that there was no reason to pull the fire alarm and that the majority of the other occupants at the rental property are seniors who have health and mobility issues, making it difficult and dangerous for them to evacuate the building for no reason.

The Landlord's Agent stated that on August 31, 2020 the Tenant's guest intentionally lit a fire in the rental unit to activate the fire alarm to the rental property. The Landlord's Agent stated that the Fire Department once again attended the rental property in relation to the Tenant and her guest tampering with the fire system, adversely affecting the quiet enjoyment, security, safety or physical well being of the other occupants in the rental property, as well as the Landlord's property.

The Landlord's Agent stated that she has served the Tenant with a One Month Notice to End Tenancy for Cause, with an effective date of September 30, 2020. The Landlord's Agent stated that given that the Tenant and her guest have pulled the fire alarm and deliberately set a fire in the rental unit on 3 occasions within 11 days, the Landlord feels as though it would be unfair to wait until the effective date of the One Month Notice to end the tenancy. As such, the Landlord is seeking an order of possession based on the immediate and sever risk that the Tenant and her guest have posed to the other occupants and to the rental property. The Landlord provided a copy of a letter written by the Fire Chief in support.

In response, the Tenant stated that she pulled the fire alarm as she required assistance. The Tenant stated that she had no phone and that it was late at night. The Tenant felt as though she had no other alternatives but to pull the fire alarm. The Tenant acknowledge that on the third incident, the Tenant's guest lit a fire in the rental unit while she was outside. The Tenant stated that her guest is no longer permitted to attend the rental property.

Analysis

Based on the documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier that the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

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...

- (a) The tenant or a person permitted on the residential property by the tenant had 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 landlords 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.

The causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the Tenant must be extreme and require immediate action.

In this case, the Landlord's evidence and testimony indicated that the Tenant and her guest were tampering with the fire system, adversely affecting the quiet enjoyment, security, safety or physical well being of the other occupants in the rental property, as well as the Landlord's property. During the hearing, the Tenant did not dispute the Landlord's claims, however, tried to justify her actions due to the fact that she needed assistance and had no phone.

I am satisfied based on the Landlord's evidence and testimony during the hearing that the Tenant and her guest have deliberately set off the fire alarm on two occasions as well as deliberately set a fire in the rental unit on all within an 11 day period.

I find that the Tenant and her guest have significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health and safety or lawful right of another occupant or the landlord, and put the Landlord's property at significant risk. Further, I find it would be unreasonable or unfair to the Landlords to wait for a notice to end the tenancy under section 47 of the *Act*.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenant. In addition, having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The Landlord is entitled to recover the filing fee paid to make the Application and is permitted to deduct the \$100.00 from the Tenant's security deposit

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: September 17, 2020

Residential Tenancy Branch