



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding New Chelsea Society and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Landlord under the Residential Tenancy Act (the Act), seeking:

- An early end to the tenancy pursuant to section 56 of the Act.

The hearing was convened by telephone conference call and was attended by the agent for the Landlord (the Agent), who provided affirmed testimony. Neither the Tenant nor an agent for the Tenant attended. The Agent was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

The Residential Tenancy Branch Rules of Procedure (the Rules of Procedure) state that the respondent must be served with a copy of the Application and Notice of Hearing. As neither the Tenant nor an agent for the Tenant attended the hearing, I confirmed service of these documents as explained below.

The Agent testified that the Landlord's documentary evidence and the Notice of Dispute Resolution Proceeding Package, including a copy of the Application and the Notice of Hearing, were sent to the Tenant by registered mail in two separate packages on October 4, 2020, and October 7, 2020, at the rental unit address. The Agent provided me with the registered mail tracking numbers and the Canada Post website confirms that the registered mail was sent as described above and received on October 5, 2020, and October 7, 2020, respectively. As a result, I find that the Tenant was served with the above noted documents in accordance with the Act and the Rules of Procedure by October 7, 2020.

Based on the above and pursuant to rule 7.3 of the Rules of procedure, the hearing therefore proceeded as scheduled despite the absence of the Tenant.

Although I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure, I refer only to the relevant and determinative facts, evidence and issues in this decision.

At the request of the Agent, copies of the decision and any orders issued in favor of the Landlord will be emailed to them at the email address provided in the Application.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession for the rental unit pursuant to section 56 of the Act?

Background and Evidence

The Agent stated that on August 2, 2020, a guest permitted on the residential property by the Tenant, assaulted another occupant of the property, resulting in hospitalization of that occupant. The Agent submitted a video and audio recording of the incident. The Agent stated that the Tenant has a restraining order against their guest but continues to permit their access to the residential property. A copy of the restraining order was submitted for my review and consideration.

The Agent therefore sought an Order of Possession for the rental unit on behalf of the Landlord as soon as possible under section 56 of the Act as they fear for the continued safety of the other occupants of the residential property.

Although the Agent acknowledged that there was a delay in seeking this Application, which was filed on October 5, 2020, they stated that the delay was the result of confusion over whether or not a One Month Notice served could be enforced and whether an Application under section 56 of the Act could still be made, given the current pandemic.

No one Appeared on behalf of the Tenant to provide any evidence or testimony for my consideration.

Analysis

Section 56 of the Act states that a tenancy may be ended early by a landlord without the need to serve a notice to end tenancy on the tenant if an arbitrator is satisfied that the tenant or a person permitted on the residential property by 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 interest 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; or
- caused extraordinary damage to the residential property.

Section 56 of the Act also requires that the arbitrator be satisfied that 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.

Based on the documentary evidence and affirmed testimony before me, I am satisfied that a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant of the residential property and seriously jeopardized the health or safety of another occupant. Given the severity of the incident which occurred on August 2, 2020, between the Tenant's guest and another occupant of the property and the Tenant's clear disregard for a restraining order already in place between themselves and the guest they invited onto the property on August 2, 2020, I find that there is a very serious health and safety risk posed to other occupants of the property by the Tenant's continued residency there.

As a result of the above, I am also satisfied that it would be unreasonable, or unfair to the Landlord and other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to be served and take effect, or for any notice to end tenancy already served under section 47 to be enforced. I therefore grant the Landlord

an Order of Possession for the rental Unit, effective **two (2) days after service** on the Tenant, pursuant to section 56 of the Act. I also order the Tenant to comply with this Order of Possession.

Conclusion

Pursuant to section 56 of the Act, I grant an Order of Possession to the Landlord effective **two (2) days after service of this Order** on the Tenant. The Landlord is provided with this Order in the above terms and the Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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.

Dated: October 23, 2020

Residential Tenancy Branch