



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PHS Community Services Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This expedited hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for an order for an early termination of a tenancy and an Order of Possession for an immediate and severe risk pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 10:20 a.m. to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord was represented at this hearing by the current building manager, LM ("landlord"). Also in attendance were a former building manager, NW and a senior manager of housing, DH. The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord's representative DH testified that he personally served the tenant with the Notice of Expedited Hearing on December 7, 2020 at the front office of the building where the tenant resides. A second copy of the notice was taped to the tenant's door on the same day. A signed, witnessed proof of service document was filed by the landlord. I am satisfied the tenant was duly served with the notice in accordance with the director's standing order on serving notices of expedited hearing and section 89 of the Act.

This hearing proceeded in the absence of the tenant.

Issue(s) to be Decided

Has the landlord provided sufficient evidence to justify an early end to tenancy?

Background and Evidence

While I have turned my mind to all the documentary evidence, including photographs, diagrams, miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below.

The landlord gave the following undisputed testimony. The rental unit is located in a supportive housing building. Many residents in this marginalized community suffer from addiction issues, mental health issues and require support in the form of trained mental health workers, nurses, cooks and home support. 24-hour support for the residents is provided, as this building houses all people including families with children and the elderly.

The tenant has been living in the building since 2011. The landlord testified that the tenant's behaviour has been increasingly violent and angry, despite the staff's efforts to de-escalate his outbursts. The landlord described incidents whereby the tenant has been continually harassing multiple residents in the building with a particular focus on a disabled elderly resident and a young, vulnerable woman.

NW, the former manager of the building, testified that on September 24, 2019, the tenant leaned into the window of the front desk where she was working, screaming. He then threw a box full of dirty, used hypodermic needles (syringes) at the manager, nearly missing a health care nurse. He also threatened to put dirty needles in the garbages of the residence.

In evidence, the landlord provided a video dated April 23, 2020 whereby the tenant can be seen jumping on a table set up in front of the front office window, then kicking a "wet floor" sign in the lobby. The landlord, NW was present at the incident and can be seen closing the office window for her own safety. A second video taken moments later from a different angle shows the tenant approach a wheelchair-bound tenant, grab him by the shirt and commence hitting him. Staff in the area hear the incident and can be seen running to respond to the assault taking place. The landlord NW testified that the tenant "throttled" the victim and that the tenant's attack upon his victim was unprovoked. The landlord testified that the police were called, but the police did not recommend charges advising the landlord to evict the tenant instead.

The landlord provided another video from October 22nd, 2020 where the tenant is shown aggressively following a young female occupant of the building while trying to prevent her from getting on the elevator. The young female resident is accompanied by a member of the supportive housing staff and the tenant is seen purposely standing on the worker's dropped clipboard in an attempt to prevent the worker from escorting the young woman to the elevator. A second video inside the elevator shows the tenant forcefully blocking the young woman's exit from the elevator. A text message from the young woman saying the tenant is holding her hostage and seeking assistance in getting out of the tenant's room was provided as evidence.

DH, the senior housing manager, testified that on December 4, 2020 he was serving the tenant a One Month Notice To End Tenancy for Cause and at that time the tenant took a swing at him, making contact on the left side of his face and head. Due to the pandemic, DH was wearing a protective face shield at the time. The face shield caused the tenant's fist to slide up the mask, minimizing the damage to DH's face.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. In this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act. An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; and, 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 to take effect.

I have carefully considered the evidence and testimony and I find the tenant's behaviour is significant and severe enough as to warrant an early end to the tenancy, pursuant to section 56 of the Act. I specifically note the video provided by the Landlord depicting the events of October 22, 2020 where the tenant begins hitting another resident of the

building completely unprovoked. I find it especially troubling that the tenant took this action against a victim who is especially vulnerable, being bound to a wheelchair. I also find the actions of the tenant the night of April 23rd further supports the landlord's reasoning that the tenant poses an immediate and severe risk to the other occupants of the building. I can reasonably conclude, based on the video evidence before me, that the young female resident was being harassed and intimidated by the tenant.

Lastly, each of the landlord's representatives, NW and DH gave first-hand testimony regarding incidences of violence against themselves by the tenant. These incidents include the used hypodermic needles being thrown at NW and the punch thrown at DH. Both the occupants at the building and the staff members are at risk of imminent danger to their health safety and security. The landlord had provided sufficient evidence to satisfy me that the tenancy should end early without the requirement for a notice given under section 47 to take effect. I grant the landlord an order of possession pursuant to section 56(1) of the Act.

Conclusion

The Landlord has met the burden to prove the tenancy should end early. 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 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 *Residential Tenancy Act*.

Dated: December 22, 2020

Residential Tenancy Branch