



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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, although I left the teleconference hearing connection open until 11:23 am in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 am. Two agents of the landlord attended the hearing ("**BW**" and "**BN**") and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. 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 BW, BN and I were the only ones who had called into this teleconference.

BW testified she served that the tenant with the notice of dispute resolution form and supporting evidence package by posting it on the door of the rental unit on November 25, 2020. I find that the tenant was deemed served with this package on November 28, 2020, three days after BW posted it, in accordance with sections 88, 89, and 90 of the Act.

Issues to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

While I have considered the documentary evidence and the testimony of BW and BN, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claim and my findings are set out below.

The parties entered into a written tenancy agreement starting January 21, 2019. The rental unit is a "studio" or "bachelor's" suite. Monthly rent is \$978 and includes meals in a common dining room, cable, and laundry. The tenant paid the landlord a security deposit of \$200, which the landlord continues to hold in trust for the tenant. The residential property is an independent living facility for seniors and persons with disabilities. It is not supportive housing and does not provide healthcare services to its tenants. Tenants must arrange for these services on their own.

BW testified that the tenant's mental state has been rapidly deteriorating in the past few months, and that the police have been called to attend the residential property to deal with the tenant on numerous occasions. She testified that the police will often call Vancouver Island Health Authority ("**VIHA**"), who will take the tenant to a hospital for observation. She testified that, prior to last time that they did this two weeks ago, the tenant has always been discharged from the hospital back to the residential property, where the tenant will continue to cause disturbances. On more than one occasion, the landlord or other occupants of the residential property have called the police on the same day that the tenant returns to the property.

BW testified that about two weeks prior to this hearing, an agent of VIHA advised her that the tenant may not be returning to the rental unit, but that they could not be certain. BW testified that the landlord wants to continue its application for an order of possession to ensure that the tenant cannot return to the residential property and to ensure that he (hopefully) gets the help he needs from VIHA.

BW testified that over the last two months the tenant has unreasonably disturbed a number of occupants in the residential property. She testified that the tenant will frequently knock or pound on other occupant's doors during the day and at night and will yell if they do not open the door. The landlord submitted a statement from another resident ("**K**") corroborating this.

She testified that several residents have told her the tenant told them another resident ("**J**") is trying to shoot him. She testified that the residents are scared of the tenant and his erratic behavior.

BW testified that the tenant broke into J's room and broke his computer. The landlord submitted an audio recording of another tenant ("**B**") in which B states that the tenant admitted to him that he did this. The landlord submitted an email from J into evidence wherein J wrote that the tenant had threatened to flatten the tires on his truck and threatened to kill him. The landlord submitted a different email from J wherein J reported that the tenant "tossed a bottle in [his] room".

BW testified that the tenant knocked on B's window at 4:00 am, naked except for a blanket, and woke B up. She testified that the tenant told B that he was looking for who was shooting at him.

Analysis

Early Termination of Tenancy applications are governed by section 56(2) of the Act, which reads:

(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.

As such, the landlord must satisfy me, on a balance of probabilities, that the requirements of sections 56(2)(a) and (b) are met.

Based on the uncontroverted testimony of BW, corroborated by the emails, statements, and audio recording submitted into evidence, I find that the tenant unreasonably disturbed other occupants of the residential property by:

- 1) knocking or pounding on their doors late in the evening and yelling at other occupants;
- 2) destroying J's laptop;
- 3) threatening to kill J; and
- 4) knocking on B's window at 4:00 am, waking him up.

Additionally, I find that it would be unfair to the other occupants and to the landlord if the landlord was required to end the tenancy pursuant to section 47 of the Act (that is, by giving one month's notice to end tenancy for cause). The disturbances are not insignificant and affect multiple occupants of the residential property. Delaying the end of the tenancy would likely extend the time during which the occupants would be deprived of their right to quiet enjoyment of the residential property.

As such, the landlord, the landlord has satisfied me on a balance of probabilities that both requirements of section 56(2) have been met. Accordingly, I grant the landlord's application.

Per the landlord's request, I make the effective date of the order of possession December 31, 2020.

I also order that, within seven days of receiving this decision, the landlord serve a copy of this decision and the attached order to VIHA, so that they may determine if the tenant is in need of support and assistance under the *Adult Guardianship Act*.

Conclusion

Pursuant to section 55 of the Act, I order that the tenant deliver vacant possession of the rental unit to the landlord by December 31, 2020 at 1:00 pm.

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 8, 2020

Residential Tenancy Branch