



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 for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for an order to end the tenancy early and receive an order of possession pursuant to section 56 of the Act.

The landlord, TM, the spouse of the landlord, DM, an agent for the landlord, CT, a property manager for the landlord, DM, the tenant, TR, and an advocate for the tenant, AF, attended the teleconference hearing and gave affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. The hearing process was explained and an opportunity to ask questions was provided to the agent. Words utilizing the singular shall also include the plural and vice versa where the context requires.

While a witness, LB, also attended, they did not provide testimony at the hearing.

The advocate confirmed that they received documentary and digital evidence from the applicant and had reviewed the documents and digital evidence with the tenant. The parties confirmed that the tenant did not serve the applicant with any documentary evidence in response to this application.

Preliminary and Procedural Matter

The parties confirmed their email addresses at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them.

Issue to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession pursuant to section 56 of the Act?

Background and Evidence

The tenancy began on February 1, 2015.

The property manager began by discussing a knife incident in July of 2020, and give that the application was filed on January 14, 2021, all parties were advised that too much time had passed for me to consider that incident for an order of possession under section 56 of the Act.

As a result of the above, the agent described a recent event on December 17, 2020, in which the tenant took a pipe and threatened a tenant residing in the same complex at the tenant, JC-B. A video of the incident on December 17, 2020, was reviewed during the hearing in which the tenant states in part:

“Let me get my fuckin’ bat and will show you how things work...”

During this time there was at least one child crying in the background. The tenant claims they are missing a foot and is disabled, however, in the video, the tenant has no visible issues walking out of their rental unit to their minivan in a very agitated state holding what appears to be either a long pipe or long piece of wood. The tenant admitted at the time he was upset, which is obvious in the video.

The tenant and advocate claim that JC-B had threatened the tenant with knowing members of the “Hell’s Angels” just prior to the video being recorded. Neither the tenant nor the advocate had anything further to submit in response to the video evidence other than reference to an RCMP file number, which I find is not relevant to the video evidence.

Analysis

Based on the documentary evidence and the oral testimony provided during the hearing, and on the balance of probabilities, I find the following.

Firstly, I find the video evidence compelling and that the tenant's behaviour to be completely unreasonable and threatening to another tenant who resides in the same complex as the tenant. Therefore, 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 that the tenant leaving their rental unit with a long bat, pipe or piece of wood in such an aggressive way while stating “let me get my fuckin’ bat and will show you how things work” to constitute an act that seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

I am also satisfied that it would be unreasonable and unfair to the landlord and other occupants or tenants of the complex to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant to constitute threat of assault or bodily harm and I find the tenant’s response to be insufficient. As a result, I find the actions of the tenant to be unreasonable in any tenancy. 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, February 11, 2021 pursuant to section 62(3) of the Act.

Conclusion

The landlord’s application is successful. The tenancy ended this date, February 11, 2021 pursuant to sections 56 and 62(3) of the Act. The landlord is granted an order of possession effective two (2) days after service on the tenant.

This decision will be emailed to both parties. The order of possession will be emailed to the landlord for service on the tenant. This order may be 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 *Act*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: February 11, 2021

Residential Tenancy Branch