



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SUNSHINE COAST LIONS HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on March 01, 2021 (the “Application”). The Landlord applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the “Act”).

B.M. and D.F. appeared at the hearing as agents for the Landlord. The Advocate appeared at the hearing for the Tenant. The Tenant did not appear at the hearing. The Advocate advised that he was expecting the Tenant to appear but that he had authority to represent the Tenant in the Tenant’s absence.

I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlord’s evidence. B.M. testified that the hearing package and evidence were posted to the door of the rental unit March 03, 2021. The Advocate advised that the Tenant told the Advocate the Tenant received the hearing package and evidence. The Advocate did not have the Landlord’s evidence and had not seen the evidence.

Based on the testimony of B.M., Proof of Service submitted and testimony of the Advocate, I am satisfied the Tenant was served with the hearing package and evidence in accordance with sections 88(g) and 89(2)(d) of the *Act*. Pursuant to section 90(c) of the *Act*, the Tenant is deemed to have received the hearing package and evidence March 06, 2021. I also find the Landlord complied with rule 10.3 of the Rules of Procedure (the “Rules”) in relation to the timing of service.

Given I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered the documentary evidence and all oral testimony of the parties. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an order ending the tenancy early pursuant to section 56 of the *Act*?

Background and Evidence

The parties agreed there is a written tenancy agreement between the Landlord and Tenant which started April 01, 2014.

The agents for the Landlord testified as follows. The Tenant physically assaulted a neighbouring tenant. The assault was unprovoked and violent. The neighbouring tenant was hospitalized because of the assault. When the neighbouring tenant was released from hospital, they had to seek alternative accommodation. The neighbouring tenant continues to reside elsewhere because the Tenant still resides at the rental unit. Other tenants have said they have been verbally threatened and intimidated by the Tenant.

The Advocate testified as follows. The Tenant concedes that an altercation took place with the neighbouring tenant; however, the details of the altercation are somewhat in dispute. Although criminal charges have been laid, these are only allegations at this point and have not been proven in court.

The agents for the Landlord sought an Order of Possession effective March 31, 2021.

The Landlord submitted the following documentary evidence:

- An email statement from the neighbouring tenant about the Tenant and his behaviour
- A statement from the neighbouring tenant's brother about the attack on his brother which includes a statement about the attack by the neighbouring tenant
- An Information charging the Tenant with assault, uttering threats, mischief and forcible entry in relation to the incident outlined by the agents for the Landlord
- A statement from L.C. about the Tenant and his behaviour

Analysis

Section 56 of the *Act* allows an arbitrator to end a tenancy early when two conditions are met. First, the tenant, or a person allowed on the property by the tenant, must have done one of the following:

1. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. Put the landlord's property at significant risk;
4. Engaged in illegal activity that has (a) caused or is likely to cause damage to the landlord's property (b) 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) jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
5. Caused extraordinary damage to the residential property.

Second, it must be unreasonable or unfair to require the landlord to wait for a One Month Notice to End Tenancy for Cause under section 47 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules, the Landlord, as applicant, has the onus to prove the circumstances meet this two-part test. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

Based on the testimony of the agents for the Landlord as well as the documentary evidence referred to above, I am satisfied on a balance of probabilities that the Tenant attacked a neighbouring tenant which resulted in the neighbouring tenant being hospitalized and unable to return to their residence. I am also satisfied the Tenant has been charged with assault, uttering threats, mischief and forcible entry in relation to the incident based on the information in evidence. The standard of proof in a dispute resolution hearing is not the criminal standard and therefore I do not find the fact that the Tenant has not been found guilty of these offences to change the analysis on this hearing. Further, the Tenant did not appear at the hearing to provide testimony about what occurred nor did the Tenant submit documentary evidence about what occurred.

In the circumstances, I accept the version of events as outlined by the agents and as outlined in the documentary evidence referred to above.

Given I am satisfied the Tenant attacked a neighbouring tenant, I am satisfied the Tenant has significantly interfered with or unreasonably disturbed another occupant of the residential property.

I am also satisfied it would be unreasonable and unfair to require the Landlord to wait for a One Month Notice to End Tenancy for Cause under section 47 of the *Act* to take effect given the incident at issue involves violence against another tenant which resulted in criminal charges.

I am satisfied the Landlord has met their onus to prove the tenancy should end pursuant to section 56 of the *Act*. I issue the Landlord an Order of Possession for the rental unit which will be effective at 1:00 p.m. on March 31, 2021.

Conclusion

The Landlord is issued an Order of Possession effective at 1:00 p.m. on March 31, 2021. This Order must be served on the Tenant and, if the Tenant does not comply with this Order, it may be filed and enforced in the Supreme Court 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: March 23, 2021

Residential Tenancy Branch