



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kekinow Native Housing Society and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlords.

The landlord's agent testified the tenants were served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 56 of the *Residential Tenancy Act (Act)* by posting to the door on April 23, 2021, in accordance with Section 89(2) of the Act. I find the tenants were duly served three days after it was posted.

Issue to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession to end the tenancy early and without notice, **pursuant to Section 56 of the Act.**

Background and Evidence

The landlords provided a copy of a tenancy agreement signed by the parties. The tenancy commenced on February 1, 2021. The tenants rent is based on a geared to income formula and determined by BC Housing.

In the landlord written submission reads as follows,

"The tenant has driven into the underground parking lot door 2 times. The second time we have video footage and the tenant appears to be intoxicated. He fell asleep at the wheel waiting for the garage door to be opened then when he

woke up he drove into it. I also have a complaint letter for another occupant stating that one of the tenants made his young girl feel uncomfortable”

The landlord’s agent testified that in April 2021, the tenant drove in the underground parking lot and into the gate causing damage, which they believe the tenant was under the influence of something. The landlord testified on March 5, 2021, there was another incident where the tenant again drove into the gate causing damage, which they believe the tenant was intoxicated and fell asleep at the wheel.

Filed in evidence is a video record, which shows the tenant entering the under-ground parking on foot, it appears that the tenant may have been intoxicated. The tenant then gets into their large truck and is seen driving in the underground parking lot and waiting at the gate for lengthy period and then hitting the gate, which support the tenant may have fallen asleep at the wheel. The tenant then get out of their vehicle and is seen walking away.

The landlord’s agent testified that they have also had complaints that the tenant has been approached young girls making them uncomfortable. Filed in evidence is a letter of complaint.

Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or
 - 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 rental unit or residential property.
- b) 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 am satisfied, based on the undisputed testimony and evidence provided by the landlord that the tenants have **put the landlord's property at significant risk** and **seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.**

In this case, the tenant has now driven twice in the underground parking lot, which they appeared to have been intoxicated. On both occasions the tenant has driven into the security gate causing damage. I find this troubling as driving while under the influence of any substance is unreasonable and jeopardized the health and safety of all parties and this behaviour puts the landlord's property at significant risk.

I also find it would be unfair to the landlord to wait for a One Month Notice to take effect as this has now happened twice since the tenancy commenced in February 2021. Therefore, I find the landlord is entitled to end the tenancy early and obtain an order of possession.

I find the landlord is entitled to an order of possession, pursuant to **section 56** of the Act, effective **two days after service on the tenants**. This order must be served on the tenants. If the tenants fails to comply with this order the landlord may file, the order with the Supreme Court of British Columbia and be enforced as an order of that Court. The **tenants is cautioned** that costs of such enforcement are recoverable from the tenants.

As the landlord was successful with their application, I find the landlord is entitled to recover the cost of the filing fee. I authorize the landlord to deduct \$100.00 from the tenants' security deposit in full satisfaction of this award.

Conclusion

I find the landlord is entitled to an order of possession, pursuant to **section 56** of the Act, effective **two days after service on the tenants**. I authorize the landlord to keep \$100.00 from the tenants' security deposit to recover the cost of the filing fee

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: May 18, 2021

Residential Tenancy Branch