



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING ADVISORY
ASSOCIATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early and receive an order of possession for health or safety reasons under section 56 of the Act, and to recover the cost of the filing fee.

An agent for the landlord CH (agent) and a second landlord representative of tenant services, FB (second agent) attended the hearing and gave affirmed testimony and were provided the opportunity to present their 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.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated May 7, 2021 (Notice of Hearing), the application and documentary evidence were considered. The agent provided affirmed testimony that the packages, one for each tenant, containing the Notice of Hearing, application and documentary evidence were served by posting to the door of the rental unit on May 7, 2021 at approximately 3:00 p.m. The agent testified that service was witnessed by ST of tenant services. Based on the undisputed testimony of the agent, I find the tenants were served as of May 7, 2021. As the tenants did not attend the hearing, I consider this matter to be unopposed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matter

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

As the agent did not have an email address for the tenants, the decision will be sent by regular mail to the tenants.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession for health or safety reasons pursuant to section 56 of the Act?
- Is the landlord entitled to the recovery of the cost of the filing fee?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on February 1, 2021. Monthly rent is \$1,275.00 per month and the tenants paid a security deposit of \$637.50, which the landlord continues to hold.

The agent testified that on April 8, 2021 the tenant, KS, was caught on CCTV security video pointing what appeared to be a firearm at two youths in the parking lot. The agent stated that Cst. Scott Skulmoski of the Westshore RCMP attended and police file number 2021-6127 was created. The agent presented a security footage screenshot (screenshot) of KS which supports that he was pointing what appeared to be a firearm on the screenshot. In addition the agent read from the police report which indicated in part that the police executed a search warrant at the rental unit and found several replica handguns, a real firearm that appeared to be stolen, a functioning Taser, brass knuckles and what appeared to be a “bike chop shop” being operating in the rental unit garage.

Analysis

Based on the undisputed testimony and undisputed documentary evidence provided during the hearing, and on a balance of probabilities, I find and I am satisfied that KS has engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety and physical well-being other occupants of the rental building and seriously jeopardized the health or safety or a lawful right or interest of the landlord.

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 am also satisfied that it would be unreasonable and unfair to the landlord and all other occupants of the building for a notice to end tenancy under section 47 of the Act. I find the actions of KS, constitute possession of a firearm. 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 on the tenants. I find the tenancy ended the date of this hearing, May 20, 2021 pursuant to section 62(3) of the Act.

As the landlord's application is successful, I grant the landlord **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act. I authorize the landlord to retain \$100.00 from the tenants' \$637.50 security deposit pursuant to sections 38 and 67 of the Act in full satisfaction of the recovery of the cost the filing fee. I find the tenants' security deposit is now \$537.50 effective immediately pursuant to section 62(3) of the Act.

Conclusion

The landlord's application is successful. The tenancy ended this date, May 20, 2021. The landlord is granted an order of possession effective two (2) days after service on the tenants.

This decision will be emailed to the landlord and sent by regular mail to the tenants. The order of possession will be emailed to the landlord for service on the tenants. This order may be enforced through the Supreme Court of British Columbia.

The landlord is authorized to retain \$100.00 from the tenants' security deposit for the filing fee. The tenants' security deposit is now \$537.50 as a result and as indicated above.

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: May 20, 2021

Residential Tenancy Branch