



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This expedited hearing dealt with an *Application for Dispute Resolution – Expedited Hearing* by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for an early end of a tenancy and an order of possession pursuant to section 56.

The landlord MS attended the hearing with her spouse and agent GS (“the landlord”) and had opportunity to provide affirmed testimony, present evidence and make submissions. The hearing process was explained.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 22 minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord was advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. The owner testified that they were recording the hearing but that they stopped when warned. They testified the hearing was not recorded.

The landlord testified they served the tenant with the Notice of Hearing and Application for Dispute Resolution by posting to the tenant's door of the unit on April 7, 2021.

The landlord provided a witnessed Proof of Service of Expedited Hearing in the RTB form. The landlord also provided photographs of the landlord posting the documents to

the door of the unit.

The Director's Order of June 26, 2019 states that a party to an application for dispute resolution set down under Rule 10 of the Rules of Procedure for an expedited hearing date that is between 12 and 16 days after the date the application is made must serve their material as set out in paragraph 2 of the Order.

Paragraph 2(b) states that the party may attach a copy to a door or other conspicuous place at the address at which the person resides; pursuant to section 90, service is deemed effective three days after service, that is, on April 10, 2020.

This application is an application under Rule 10 as it is an application for an expedited hearing to be heard on short notice to the Respondent. Further to Rule 10, section 2(b) of the Order of June 26, 2019 and in consideration of the undisputed testimony of the landlord, I find the landlord served the tenant on April 10, 2020.

Issue(s) to be Decided

Is the landlord entitled to the relief requested?

Background and Evidence

I have only considered and referenced in the Decision relevant evidence submitted in compliance with the Rules of Procedure to which I was referred.

The landlord provided the following uncontradicted testimony as the tenant did not attend the hearing. The 1-year fixed term tenancy began on February 1, 2021. Rent is \$1,850.00 payable on the first of the month. The tenant provided a security deposit of \$925.00 which the landlord holds. The tenant has not paid rent for the months of April and May 2021.

The landlord submitted a copy of the signed tenancy agreement. The landlord explained the unit is in a multi-unit building with over 200 occupants.

The landlord submitted considerable oral testimony as well as supporting documents which included texts from the tenant. Not all this evidence is reproduced or discussed here.

The key points are as follows:

1. Throughout the tenancy, the tenant exhibited noisy behaviour which disturbed neighbours who complained to the landlord.
2. On February 24, 2021, the police raided the unit, seized drugs and weapons, and arrested the tenant; the incident received broad media coverage referenced by the landlord.
3. The landlord testified that on March 28, 2021, the tenant sent a text to the landlord threatening to kill the landlord and their dog; a copy of the text was submitted.
4. The landlord testified that later the same day, the tenant sent a text to the landlord threatening to kill the landlord and enclosed a photograph of a hand holding a gun; a copy of the text and photo was submitted.
5. On March 31, 2021, the landlord issued a One Month Notice for Cause claiming, among other causes, that the tenant significantly disturbed the landlord and occupants and engaged in illegal behaviour.
6. A copy of the One Month Notice was submitted which is in the standard RTB form and complied with section 52 as to form and content.
7. The Notice was posted to the tenant's door on March 30, 2021 in the company of the police thereby affecting service 3 days after posting, on April 2, 2021. The effective date was April 30, 2021, amended to May 31, 2021.
8. The day after posting of the One Month Notice, the tenant turned gas on in the unit and caused the evacuation of the building because of the risk of explosion and widespread injury or damage; the police attended and arrested the tenant who was removed from the unit.
9. The landlord brought an application for Early End of the Tenancy on April 1, 2021 and claimed they are afraid of what will happen if they do not act before the effective date of the One Month Notice.
7. The tenant has not filed a dispute for the One Month Notice.
8. The landlord did not know if the tenant planned to vacate the unit and the tenant's possessions are still in the unit.

The landlord requested an Order of Possession based on section 56 of the Act as follows:

Application for order ending tenancy early

Section 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.

The landlord stated that it was unreasonable or unfair to the landlord and the other occupants to wait for a One Month's Notice to take effect under section 47 (landlord's notice).

The landlord requested an Order of Possession effective immediately.

Analysis

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of the submissions and documents are reproduced here. The

relevant and important aspects of the landlord's claims and my findings are set out below.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In this case, the onus is on the landlord to establish on a balance of probabilities that they are entitled to an order for an early end of the tenancy.

To end a tenancy early, the landlord must prove that the tenant has done something contrary to section 56 **and** that it would be unreasonable or unfair to the landlord or other occupants to wait for a notice to end tenancy for cause ("One Month Notice").

Section 56 of the Act, referenced above, provides as follows [emphasis added]:

Application for order ending tenancy early

Section 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.

The landlord relied primarily on section 56(2)(a)(i) and (iii), that is:

the tenant has:
significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, and
put the landlord's property at significant risk;

Policy Guideline 51 – Expedited Hearing provides guidance on the issuance of Orders of Possessions in these circumstances. The Guideline states in part:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.

The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).

The landlord gave matter of fact, forthright, and credible evidence well supported by documentary evidence. I have given significant weight to the evidence of the landlord which I found professional and direct. The landlord was believable in describing the actions of the tenant, in assessing the risk of weapons and illegal drugs being in the possession of the tenant in the unit, and the risk of injury or harm to others if the tenant left the gas on in the unit again.

I accept the landlord's testimony as reasonable and reliable. I find the landlord has established significant disturbance to the landlord and others by facts to which the

landlord testified.

I find that the landlord provided enough evidence that it would be unreasonable to wait for a hearing for a One Month Notice, as the testimony and evidence presented by the landlord demonstrated a significant risk of injury and damage.

In consideration of the evidence, the Act and Guideline, on a balance of probabilities and for the reasons stated above, I find that the landlord's application meets the burden of proof and satisfied all requirements under section 56 of the *Act*.

Accordingly, I allow the landlord's application for an early end to this tenancy and an Order of Possession will be issued.

Conclusion

I grant an **Order of Possession** pursuant to section 56 (Early End of Tenancy) to the landlord effective **on two days' notice**. This Order must be served on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of 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 *Residential Tenancy Act*.

Dated: May 03, 2021

Residential Tenancy Branch