



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PHS Community Services Society and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This expedited hearing dealt with an application filed by the landlord pursuant the Residential Tenancy Act (the "Act") for an early termination of a tenancy pursuant to section 56 because the tenant or a person permitted on the property by the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord; and because it would be unreasonable to wait for an order of possession under section 47 of the Act.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:45 a.m. to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by project manager, BF ("landlord"). The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that the Notice of Expedited Hearing Package was served upon the tenant by placing the documents in a manila envelope and posting the envelope bearing the tenant's name on the tenant's door on July 13, 2021. A signed, witnessed proof of service form was provided as evidence. The landlord testified he was the witness who watched his colleague post the package to the tenant's door. The landlord further testified that the package contained the tenant's copies of evidence which included a USB stick containing the video recordings. The landlord further testified that on July 13th, he saw the tenant twice and the tenant read the documents in front of him. The landlord testified that the tenant was angry and asked the landlord why this is happening.

Based on the landlord's testimony, I am satisfied the tenant was served with the Notice of Expedited Hearing on July 13th in accordance with section 71 of the Act. This hearing proceeded in the tenant's absence pursuant to Rule 7.3 of the Residential Tenancy Branch Rules of Procedure.

Issue(s) to be Decided

Has the landlord provided sufficient evidence to prove the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord?

Background and Evidence

The landlord testified that the tenancy began in 2011 with a different housing provider. The tenant's rent is subsidized and the tenant currently pays \$320.00 per month on the first day of each month.

The landlord referred me to video evidence and the statement of a staff member (JA) who was mopping the floors outside the tenant's room at approximately 3:00 a.m. on the morning of June 5th. The tenant was upset about missing property that was to be investigated by a different staff member later by viewing videotapes. JA heard the tenant complain about the staff at the facility not doing anything and confronted the mopping staff member about it. According to JA's report, the tenant asked JA if he was deaf and dumb and proceeded to call JA derogatory racial slurs.

According to the report and the video evidence, the tenant *"Got so mad and came very close to my face, yelling spitting on my face"*. Threats to stab JA and more slurs were made towards JA by the tenant and his friend, according to JA's submission. After threatening JA, the tenant went into his unit and returned with a blue t-shirt wrapped around his right hand. JA states that while on the phone with 911, the tenant hit him on the right ear with the wrapped hand and JA felt metal under the t-shirt. The metal was not sharp and did not cut JA. According to the report, the tenant went back to the room and came back to JA to collect the mop JA was holding to throw it to the stairwell, pushing JA to the stairwell door to leave the 6th floor. The incident was captured by multiple cameras on the 6th floor, however the strike to JA's right ear is out of camera range.

The police were called, and the tenant was arrested and taken away. When the tenant returned from the police holding cells, the tenant told a second staff member that he was upset and that he *"had people waiting outside and that his hands were clean"*. A second staff member, JL records in his statement that *"right before cops arrived and*

cuffed [the tenant] he again told us at some point he is going to get us and we know he's patient due to his stint in the joint."

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.
- put the landlord's property at significant risk;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;
- engaged in illegal activity that 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;
- engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property, **and**

it would be unreasonable, or unfair to the landlord, the tenant 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.

Based on the undisputed testimony provided by the landlord, I find the landlord has provided sufficient evidence to show the tenant has seriously jeopardized the health or safety of the landlord, or more precisely the staff working at the residential facility where the rental unit is located.

I have reviewed the video evidence provided by the landlord and find that the video closely matches the description of events supplied by JA, the staff member who was hit by the tenant while his hand was wrapped in a t-shirt with an unknown object inside. I find the behaviour of the tenant during this confrontation to be both menacing and confrontational and that JA did nothing to provoke the tenant. Although there is no audio recording of the incident, I accept the landlord's undisputed testimony and the statement of JA to confirm that the tenant used racial slurs before the attack upon JA. I also accept the undisputed evidence from JL to show that the tenant continued to threaten the other staff at the residential facility when the police were called to arrest him. If the tenancy were to continue, there is a likelihood that the safety of JA and the others working at the facility could be compromised by the tenant's violent and unpredictable behaviour.

I find that the health and safety of the landlord, namely the staff at the residential facility is seriously jeopardized and that it would be unreasonable or unfair to wait for a One Month Notice To End Tenancy for Cause to take effect. For this reason, I order that the tenancy end early and I issue an Order of Possession in the landlord's favour effective 2 days after service upon the tenant.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises 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: July 27, 2021

Residential Tenancy Branch