



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

The landlord applies for an order pursuant to section 56 of the *Residential Tenancy Act* ("Act"). They also seek recovery of the cost of the filing fee, under section 72 of the Act.

The landlord attended the hearing which was held by teleconference. The tenant did not attend the hearing. I am satisfied based on documentary and oral evidence provided that the tenant was served in compliance with Act and the *Rules of Procedure*. Finally, as there is only one tenant on the tenancy agreement, I have removed the name of the third party from the style of cause (cover page) of this decision.

Issues

1. Is the landlord entitled to an order under section 56 of the Act?
2. Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the specific issues of this dispute, and to explain the decision, is reproduced below.

The landlord seeks an order of possession under section 56 of the Act. In support of their application the landlord submitted into evidence various statements regarding the tenant's and the tenant's partner's behavior and activity in and around the rental unit.

While I shall not delve too deeply into the details included in the various written submissions and statements (though I have carefully reviewed and considered the contents in their entirety), the written description provided on the landlord's application succinctly and sufficiently encapsulates the reasons why this tenancy must end:

I am afraid to stay in my house alone. My husband works out of town and has not been able to work. [Tenant] and Justin are both known crack addicts. [Tenant] has 3 restraining orders against her and Justin is a convicted felon with a conviction for aggravated home invasion. He has been seen by our neighbour and my husband with a pistol. [Tenant] has been arrested four or five times in the past month for b&e's, horse theft and vehicle theft. There is about \$12,000 damage to our house.

The written statements in evidence support the above-noted description of the problem. Finally, while the tenant and others have appeared to have moved out on July 28, they left a fair amount of personal property and garbage behind. This property includes, among other things, ten cellular telephones, a Bluetooth speaker, seven propane tanks, and a 1994 Mitsubishi Eclipse with four flat tires.

Analysis

Section 56(1) of the Act permits a landlord to 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, and (b) granting the landlord an order of possession in respect of the rental unit.

In order for me to grant an order under section 56(1), I must be satisfied that

- (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.

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 evidence overwhelmingly establishes that the tenant and the tenant's partner (common law spouse, it would appear) have posed adverse security and safety risks to the landlord, the landlord's husband, and others. Indeed, Justin's brandishing of a pistol in front of the landlord's husband as an intimidation tactic is wholly unacceptable.

Taking into consideration all of the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving their claim for an order ending the tenancy early and for an order of possession. Therefore, I hereby order that the tenancy is ended effective immediately.

An order of possession is issued in conjunction with this decision, to the landlord.

As the landlord was successful in their application, I hereby authorize them to retain \$100.00 of the tenant's security deposit to pay for the application filing fee, pursuant to section 72 of the Act.

Regarding how the landlord may now go about dealing with the tenant's abandoned property, she is referred to [Part 5 \(sections 24 through 30\)](#) of the *Residential Tenancy Regulation*. Appreciating that this is rather lengthy process, the landlord is encouraged to contact the Residential Tenancy Branch should she have additional questions.

Conclusion

I hereby grant the landlord's application. The tenancy is ordered ended effectively immediately pursuant to section 56(1)(a) of the Act.

I hereby grant the landlord an order of possession, which must be served on the tenant (which may include service on the door of the rental unit) and which is effective two days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

This decision is made on authority delegated to me under section 9.1(1) of the Act.

Dated: August 12, 2021

Residential Tenancy Branch