



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PREHOFER CONSTRUCTION
LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Code: ET

Introduction

The landlord seeks an order to end the tenancy early pursuant to section 56 of the *Residential Tenancy Act* ("Act").

An agent (the building manager) and one of the tenants (J.L.) attended the hearing on October 7, 2021. The tenant explained that the tenant A.J. was in hospital and tenant E.C. was at work, and unable to attend the hearing.

No service issues were raised, and Rule 6.11 of the *Rules of Procedure* was explained.

It should be noted that the landlord advised me that one piece of documentary evidence, a PDF titled "Complaint_Letter.pdf" had been submitted into evidence at the Residential Tenancy Branch but that this document had not been served or provided to the tenants. The landlord explained that the tenants whose names are contained within this document did not want the tenants to find out their identity. It was explained to the landlord that, while the reasons for not serving a copy on the tenants is understandable, any evidence not served on an opposing party cannot be considered. The landlord acknowledged that he understood this explanation.

Issue

Is the landlord entitled to an order of possession under section 56 of the Act?

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 issue of this dispute, and to explain the decision, is reproduced below.

The landlord testified that they seek to end the tenancy early because of the ongoing disturbances caused by the tenants to other occupants of the 48-rental unit 4-storey residential complex. The disturbances are non-stop, almost every day, middle-of-the-night, and involve banging, yelling, fighting, screaming, and so forth. The tenants continually allow and invite “undesirable people” into the building at all hours of the day, including during the night.

The landlord testified that over the last six to eight months things have “definitely gotten a lot worse,” and the police have been called on numerous occasions.

The landlord gave evidence that there are simply “too many people scared to leave” their apartments, primarily because of the undesirable people being let in. The landlord has attempted to get the tenants to stop and have issued numerous breach and complaint letters to the tenants, to no avail. Last, the landlord acknowledged that tenants have a right to use their own place as they see fit, but that does not mean they may do so in a manner that causes other tenants to be disturbed or scared.

The tenant testified that “we’re not the only tenants in this building.” And, that the tenant’s brother has mental health issues and is not, despite appearances, homeless. She explained that they have spoken to the neighbours around the rental unit, and they have refused to write complaint letters. Apparently, the landlord has canvassed the neighbours seeking letters outlining the tenants’ conduct and behavior. Quite simply, the tenant argued, “there’s no proof.”

In rebuttal, the landlord testified that every day he goes outside and converses with other neighbors. Several of the tenants complain, almost every other day, about the tenants’ disturbances. He added that “these people are truly terrified.”

In rebuttal, the tenant testified that she talks to those people out front and “none of them have any issues” with the tenants.

In support of the application the landlord submitted a 28-page document titled “Evidence.pdf.” That document contains, among other things such as a copy of the tenancy agreement, 6 breach letters from the landlord to the tenants (dated October 2020, June 4, 11, 16, July 2 and 4, 2021), and 3 complaint letters from three other occupants of the building to the landlord (one letter is undated while the other two are dated July 6 and July 25, 2021). The tenants did not submit any documentary evidence in respect of this dispute.

Analysis

Section 56(1) of the Act permits a landlord to apply for an order (a) ending a tenancy 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 to consider granting an order under section 56(1) of the Act the applicant landlord must prove to me, on a balance of probabilities, that (section excerpt):

- (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; [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.

In this case, the landlord's oral and documentary evidence – most convincingly three tenant complaint letters, supported by six breach letters – persuades me to find, on a balance of probabilities, that the tenants have significantly interfered with, and unreasonably disturbed, many occupants of the residential property.

Despite the tenant's argument that the few tenants who she speaks to do not seem to have any issue with the tenants, the three tenants who wrote detailed and timely letters complaining of the tenants' behavior would suggest that there indeed other tenants who have legitimate concerns. It is not difficult to imagine that not every unhappy tenant is necessarily going to share their concerns with the tenant whilst having a smoke break.

Finally, given the almost-daily disturbances of the tenants, it would in my mind be unreasonable and unfair to the other occupants of the residential property to wait for a notice to end the tenancy under section 47. While the landlord previously issued a One Month Notice to End Tenancy for Cause, and while there is currently a hearing scheduled for December 9, 2021, the nature of the interferences and disturbances is such that the landlord was well within their legal right to apply for an order to end the tenancy early under section 56 of the Act.

Conclusion

The application for an order ending the tenancy early is granted.

Pursuant to section 56(1)(a) of the Act the tenancy is ordered ended immediately.

Pursuant to section 56(1)(b) of the Act the landlord is granted an order of possession.

This order of possession, which is issued in conjunction with this decision to the landlord, must be served on the tenants and the order 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 delegated authority under section 9.1(1) of the Act.

Dated: October 7, 2021

Residential Tenancy Branch