



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Select Real Estate, Property Management
Division and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This expedited hearing dealt with the landlords' application pursuant to section 56 of the *Residential Tenancy Act* (the "Act") for an early end to this tenancy and an Order of Possession.

The tenant did not attend this hearing which lasted approximately 15 minutes. The teleconference line remained open for the duration of the hearing and the Notice of Hearing was confirmed to contain the correct hearing information. The corporate landlord was represented by their agent (the "landlord") who was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord was made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and they testified that they were not making any recordings.

The landlord testified that they served the tenant with the notice of application and evidence by registered mail sent on November 16, 2021. The landlord submitted a valid Canada Post tracking receipt as evidence of service. Based on the evidence I find that the tenant is deemed served with the landlord's materials on November 21, 2021, five days after mailing, in accordance with sections 88, 89 and 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an early end of this tenancy and an Order of Possession?

Background and Evidence

The landlord provided undisputed evidence regarding the following facts. This periodic tenancy began in August 2018. The current monthly rent is \$850.00 payable on the first of each month. The rental unit is a suite in a multi-unit building with 45 units.

The tenant has engaged in various violent attacks against their domestic partner. The tenant has also habitually been found in the common area of the rental property under the influence of substances causing disturbance and threatening other occupants of the building. The tenant has been arrested and charged on a number of occasions for assault against their partner. The tenant is currently prohibited from attending at the rental unit as a condition of their release. The tenant has repeatedly breached their release order by coming onto the property, interacting with their partner and other occupants and acting in a threatening, aggressive manner.

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 evidence of the landlord I am satisfied that the tenant has engaged in behaviour that seriously jeopardizes the health and safety of the other occupants of the building and has caused significant unreasonable disturbance.

I find that the undisputed testimony of the landlord, the correspondence from law enforcement and the publicly available record of charges against the tenant to be sufficient to establish that the tenant has engaged in illegal activities that jeopardize the health and safety of others.

I find that physically assaulting a person is an inherently violent act that is intended to harm others. I am satisfied with the landlord's testimony and documentary materials that the tenant has engaged in numerous incidents of assault, violence and threats that pose a serious risk to the health and safety of the occupants of the rental property.

Based on the evidence of the incidents recurring and the tenant's current behaviour breaching the terms of their release and unlawfully entering the rental building I find that it would be unfair and unreasonable to the landlord and the other occupants of the building to wait for a notice to end tenancy to take effect. I therefore issue an Order of Possession to the landlord pursuant to section 56 of the *Act*.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenant 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: December 7, 2021

Residential Tenancy Branch