



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Nav Tara Holdings
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act [landlord's notice for cause]; and
- recovery of the filing fee.

The landlord's agents (agents) attended; however, the tenant did not attend.

As the tenant did not attend the hearing, service of the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The landlord filed the Canada Post receipt and tracking number proving they served the tenant with the application package by registered mail on December 8, 2021, and a search indicated that the tenant collected the registered mail on December 11, 2021.

I accept the landlord's undisputed evidence and find that the tenant was served notice of this hearing in a manner complying with section 89(1)(c) of the Act. The hearing proceeded in the tenant's absence.

The agents and witness were provided the opportunity to present their affirmed testimony, to refer to their documentary evidence, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules. However, not all details of the submissions and or arguments are

reproduced here; further, only the evidence specifically referenced and relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a One Month Notice to End Tenancy?

Is the landlord entitled to an Order of Possession of the rental unit and recovery of the filing fee?

Background and Evidence

The tenancy started on June 1, 2018, for a monthly rent of \$1,100. The rental unit is in a multi-unit strata building.

In support of their application, the agent submitted that the tenant has done at least one 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 interest of the landlord or another occupant;
- put the landlord's property at significant risk.

In support of their application, the landlord submitted a series of text messages from the tenant to the landlord's property manager and building manager. In a text message on November 29, 2021, the tenant uttered a racist threat to one of the agents, hoping they die, and a threat that he would "burn this place to the (*expletive deleted*) ground".

The landlord submitted other documentary evidence showing threats and damage caused by the tenant.

The landlord submitted that the tenant vacated the rental unit on or about December 17, 2021, but requested the order of possession of the rental unit in the event the tenant attempt to return.

Analysis

Based on the undisputed relevant oral and written evidence, and on a balance of probabilities, I find and I am satisfied that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property or put the landlord's property at significant risk.

Section 56 of the Act applies and states:

Application for order ending tenancy early

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.

[Emphasis added]

I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a notice to end tenancy under section 47 of the Act. I find the evidence before me to support that the tenant has uttered threats of bodily harm to the landlord's agents and threats to burn down the residential property.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service on the tenant. I find the tenancy ended the date of this hearing, December 21, 2021, pursuant to sections 56 and 62(3) of the Act.

I also grant the landlord recovery of their filing fee of \$100, pursuant to section 72(1) of the Act.

Conclusion

The landlord's application is successful.

The tenancy ended this date, December 21, 2021.

The landlord is granted an order of possession effective two (2) days after service on the tenant.

If it becomes necessary for the landlord to enforce the order of possession of the rental unit, the tenant is cautioned that they may be liable for bailiff costs.

The landlord is granted a monetary order of \$100, for recovery of their filing fee.

I authorize the landlord to deduct \$100 from the tenant's security deposit, if they choose to redeem their monetary award in that manner. If so, the monetary order is of no force or effect.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: December 21, 2021

Residential Tenancy Branch