



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LU'MA NATIVE BCH HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early for health or safety reasons, receive an order of possession, and to recover the cost of the filing fee.

A landlord agent, JS (agent) attended the teleconference hearing and gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. The hearing process was explained and an opportunity to ask questions was provided to the agent. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Hearing dated January 18, 2021 (Notice of Hearing), the application and documentary evidence were considered (Package). The landlord provided affirmed testimony that the Package was served by personal service on the tenant at T shelter on January 18, 2022 at 12:16 p.m. and was witnessed by third-party, VB. I accept the undisputed testimony of the agent and find the tenant was served with the Package on January 18, 2022. Given the above, the hearing continued without the tenant present in accordance with Rule 7.1 and Rule 7.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules), which address consequences for not attending a dispute resolution hearing.

Preliminary and Procedural Matters

The agent was informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The agent was also informed that if any recording devices

were being used, they were directed to immediately cease the recording of the hearing. In addition, the agent was informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. The agent did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the agent confirmed their email address at the outset of the hearing and stated that they understood that the decision and any applicable orders would be emailed to them. As the landlord did not have an email address for the tenant, the decision will be sent to the mailing address of the tenant.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession for health or safety reasons under section 56 of the Act?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on May 1, 2021. Monthly rent is \$375.00 per month. The tenant paid a security deposit of \$187.50 at the start of the tenancy, which the landlord continues to hold.

The agent testified that the tenant is suffering from psychosis and believes there are woman being trapped in the subfloor and walls being tortured and raped as part of the psychosis. The agent stated that the tenant has threatened to take matters into their own hands and used a crossbow on December 19, 2021 to gain access to another unit in the rental building. The agent confirmed that 911 was called and the police arrested the tenant and that he is now on bail pending criminal charges related to the crossbow and is prohibited from being within 1 block of the rental building.

The agent submitted the incident report which supports the testimony of the agent.

Analysis

Based on the undisputed testimony provided during the hearing, and on a balance of probabilities, I find the following.

I am satisfied that the tenant has committed an illegal act, Possession of a Weapon that has adversely affected the physical well being of another occupant. I also find the

tenant's actions to be unreasonable in any tenancy. Therefore, 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 and occupants of the rental building to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant and documentary evidence before me to support that the tenant used a crossbow to attempt to gain access into another unit in the rental building during a state of psychosis. I find this behaviour to be unreasonable in any tenancy. 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 on the tenant. **I find the tenancy ended on the date of this hearing, February 4, 2022 pursuant to section 62(3) of the Act.**

As the landlord's application is successful, I grant the landlord **\$100.00** for the recovery of the cost the filing fee under section 72 of the Act. **I authorize** the landlord to deduct **\$100.00** from the tenant's security deposit of \$187.50 and pursuant to section 62(3) of the Act, I find the tenant's new security deposit balance is \$87.50 effective immediately.

Conclusion

The landlord's application is successful.

The tenancy ended this date, February 4, 2022.

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

This decision will be emailed to both parties. The order of possession will be emailed to the landlord for service on the tenant. This order may be enforced through the Supreme Court of British Columbia.

The landlord has been authorized to deduct \$100.00 for the filing fee from the tenant's security deposit. The security deposit balance is now \$87.50 accordingly.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the 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: February 4, 2022

Residential Tenancy Branch