



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

The Landlord files for an early termination to the tenancy without notice pursuant to s. 56 of the *Residential Tenancy Act* (the “Act”).

S.M. appeared as agent for the Landlord. The Tenant did not attend, nor did someone attend on his behalf.

Pursuant to Rule 7.1 of the Rules of Procedure, the hearing began as scheduled in the Notice of Dispute Resolution. As the Tenant did not attend, the hearing concluded without his participation as permitted by Rule 7.3 of the Rules of Procedure.

The Landlord's agent affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The Landlord's agent confirmed that they were not recording the hearing.

The Landlord's agent advises that the Notice of Dispute Resolution and their evidence were posted to the Tenant's door on January 25, 2022. The Landlord provides a proof of service form confirming this. I find that the Landlord served their application materials in accordance with s. 89 of the *Act*. Pursuant to s. 90 of the *Act*, I deem that the Tenant received the Landlord's application materials on January 28, 2022.

Issue(s) to be Decided

- 1) Should the tenancy be ended early and without notice?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issue in dispute will be referenced in this decision.

The Landlord's agent confirmed the following details with respect to the tenancy:

- The Tenant began to occupy the rental unit on July 1, 2018.
- Rent of \$420.00 is due on the first day of each month.
- The Landlord holds a security deposit of \$187.50 in trust for the Tenant.

The Landlord provided a copy of the written tenancy agreement. The Tenant's rental unit is in a multi-unit residential property.

The Landlord advises that they issued a One-Month Notice to End Tenancy dated December 23, 2022 (the "One-Month Notice") and put a copy of the notice into evidence. They say that the Tenant filed to dispute the One-Month Notice and the Tenant's application is coming on for hearing on February 17, 2022.

However, the Landlord says that after the One-Month Notice was served on the Tenant, there has been escalating and persistent problems with respect to the Tenant's conduct.

The Landlord cites two incidents: one on January 12 and the other on January 14. An incident report dated January 12, 2022 provided by the Landlord indicates that the Tenant entered elevator and damaged fob reader inside the elevator. The Landlord provides a video time stamped to the same date showing an individual entering the elevator, appearing to damage something on the control panel, then exiting the elevator.

The second incident of January 14, 2022 involved the Tenant pulling a fire alarm. An incident report from January 14, 2022 describes the Tenant entering the residential property, telling an individual to "open my door bitch" while walking toward the elevator. The residential property has a security booth in the entrance which appears to be surrounded by glass. The incident report says that the Tenant "pounded" on the security window several times and told the individual inside to "call the police bitch". The report then describes that the Tenant went to the fire alarm in the entrance and pulled it. The Tenant is said to have told the security attendant that he would pull the fire alarm every day. A video provided by the Landlord and time stamped for January 14, 2022 shows the Tenant pulling the fire alarm.

The report of January 14, 2022 further indicates that police attended and gave the Tenant a warning and advised of the consequences should similar behaviour continue.

The Landlord's agent says that the Tenant has, since mid-January 2022, yelled at other occupants at the property, banged on their doors, and been angry with staff members, which has including intimidating posturing toward the staff. No specific information of incidents were provided by the Landlord with respect to these incidents and appears to be general behaviour since mid-January.

The Landlord also mentions an incident in which the Tenant broke a window at the property, referring me to a video in their evidence. That video is time-stamped to December 22, 2021 and is described within the One-Month Notice.

The Landlord filed their application on January 18, 2022¹. The Tenant continues to occupy the rental unit.

Analysis

The Landlord applies for an early termination of the tenancy pursuant to s. 56 of the *Act*. A landlord may end a tenancy early under s. 56 where a tenant or a person permitted on the residential property by the tenant:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- 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, 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 has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
- caused extraordinary damage to the residential property,

These grounds, as set out in s. 56(2)(a), mirror those found within s. 47(1)(d) to (f). The key difference between these sections of the act is that under s. 56 no notice is given to end the tenancy on the basis that it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a one-month notice given under s. 47 to take effect.

Policy Guideline 51 sets out, at page 4, that applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. Policy Guideline 51 provides examples, including acts of assault, vandalism, production of illegal narcotics, and sexual harassment.

Based on the Landlord's submissions, I am satisfied that an early end to the tenancy is warranted. I accept the uncontradicted evidence that the Tenant smashed a window on December 22, 2022, which formed the basis for issuing the One-Month Notice. Despite the service of the One-Month Notice, the Tenant has continued his behaviour, which includes damage to an elevator on January 12, 2022 and the concerning behaviour of January 14, 2022. The Tenant's behaviour on January 14, 2022 was clearly meant to threaten or menace the staff member by banging on the glass screen for the security booth.

I find that the Tenant's behaviour indicates a pattern in which there is a risk of escalation, particularly in light of his conduct toward staff as evidenced by the January 14, 2022 incident. I further accept the Landlord's evidence that the Tenant has continued to menace and yell at staff since the incident on January 14, 2022. I find that the Tenant's conduct seriously jeopardizes the health and safety of the Landlord's employees, who have a lawful right to be in the residential property to conduct their duties as employees.

I further find that the Tenant's damage to the elevator on January 12, 2022 constitutes vandalism, which is an illegal activity that clearly caused damage to the Landlord's property.

Combined with the incident of December 22, 2021 where the Tenant broke a window, I find that the incident of January 12, 2022 represents a continued pattern of wilful destruction of the Landlord's property that make it unreasonable and unfair for the Landlord to wait for the One-Month Notice to take effect. I further find that the Tenant's menacing behaviour provides a continued threat to the health and safety of staff members such that, again, waiting for the One-Month Notice to take effect would be unreasonable and unfair.

I would note that the One-Month Notice and the Tenant's impending hearing does not preclude the Landlord from seeking or obtaining an order for possession under s. 56. Under certain circumstances, such an action may be considered "queue jumping", which is to be discouraged as per Policy Guideline 51. However, I find that it is entirely

appropriate to grant an order for possession under s. 56 despite the issuance of a One-Month Notice when the facts warrant it. This is particularly so when a tenant's behaviour poses continued risk to the safety of persons and property. As mentioned above, I find that this is the case presently.

Accordingly, the Landlord is entitled to an order for possession.

Conclusion

I grant the Landlord an order for possession pursuant to s. 56 of the *Act*. Accordingly, the Tenant shall provide vacant possession of the rental unit to the Landlord within **two (2) days** of receiving the order.

It is the Landlord's obligation to serve this order on the Tenant. If the Tenant does not comply with the order for possession, it may be filed by the Landlord with the Supreme Court of British Columbia and enforced as an order of that Court.

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: February 11, 2022

Residential Tenancy Branch