



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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 and receive an order of possession due to health or safety reasons under section 56 of the Act and to recover the cost of the filing fee.

An agent for the landlord, CC (agent) and an assistant manager for the landlord, BM (assistant manager) attended the teleconference hearing and gave affirmed testimony and was 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 participants. 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 Dispute Resolution Proceeding dated March 3, 2022 (Notice of Hearing), application and documentary evidence were considered. The assistant manager testified that the Notice of Hearing, application and documentary evidence were served by posting to the tenant's door on March 4, 2022, at 1:00 p.m. and was witnessed by A.M. Given the above, I find that the tenant was deemed served as of March 7, 2022, pursuant to section 90 of the Act, which states that documents served by posting to the door are deemed served 3 days after they are posted.

As the tenant did not attend the hearing, although duly served, I find that this matter is unopposed by the tenant.

Preliminary and Procedural Matters

The participants were 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 participants were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the participants were 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 participants did not have any questions about my direction pursuant to RTB Rule 6.11.

In addition, the participants 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 tenant did not have an email address, the tenant will be sent a copy of the decision by regular mail.

Issues to be Decided

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

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on September 25, 2020. Monthly rent is \$375.00 per month and is due on the first day of each month. The tenant paid a security deposit of \$187.50 at the start of the tenancy, which the landlord continues to hold.

The landlord wrote the following in their application:

On September 21st, 2021 [name of tenant] spoke to staff in a derogatory manor and screamed in their face. When approached by another tenant about this behavior, [name of tenant] raised her fist to the tenant as if to hit her. On February 8th, 2022 [name of tenant] threatened staff and spit at them. On February 11th, 2022 [name of tenant] threatened staff, and punched the safety glass to the office numerous times.

The agent was asked to describe the February 8, 2022, incident first as I find the September 21, 2021, incident was too long ago to be considered for this application. The agent and assistant manager stated that the tenant threatened to beat up CG (victim) who was working in the office. The assistant manager witnessed this event and stated that the tenant also banged on the door and almost broke it down, which concerned them all. The victim later advised the assistant manager that the tenant also spit on them.

The assistant manager then described the second incident on February 11, 2022, as the tenant was witnessed screaming and punching the safety glass of the office and was threatening staff members.

Analysis

Based on the undisputed testimony and undisputed documentary evidence provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord, which includes the landlord's agent, CG, who I find was a victim. I find that any threat of assault and spitting on someone during a pandemic (the latter of which I find to be an assault) against the landlord or their agent, is both unreasonable and should not be tolerated whatsoever. 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 or their agent to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant and the documentary evidence before me to support that the tenant threatened assault and committed assault, spitting, against the landlord agent. Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective **March 31, 2022 at 1:00 p.m.** I find the tenancy ended the date of this hearing, **March 18, 2022**, pursuant to section 62(3) of the Act.

Pursuant to sections 67 and 72 of the Act, I grant the landlord \$100.00 for the cost of the filing fee as the landlord's application is fully successful. I authorize the landlord to retain \$100.00 from the tenant's \$187.50 security deposit in full satisfaction of the recovery of the filing fee pursuant to section 62(3) of the Act. I also find that the tenant's security deposit is now \$87.50 as a result, effective immediately.

Conclusion

The landlord's application is successful.

The tenancy ended this date, March 18, 2022.

The landlord is granted an order of possession effective March 31, 2022 at 1:00 p.m. This date has been used as the tenant has paid rent for March 2022. This decision will be emailed to the landlord and sent by regular mail to the tenant. The order of possession will be emailed to the landlord for service on the tenant. The order of possession may be enforced through the Supreme Court of British Columbia.

I caution the tenant to never assault or threaten assault against a landlord or their agent in the future. Further, the tenant can be held liable for all costs related to enforcing the order of possession.

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: March 18, 2022

Residential Tenancy Branch