



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Atira Property Management Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

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.

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

The agent stated they served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by attaching it to the tenant's door. Agent LW stated that she had a conversation with the tenant March 24, 2022, when she asked him if he was planning on attending the hearing. LW stated the tenant said he was not joining and told the landlord to "go ahead" with the hearing.

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

The agents were affirmed for the hearing and confirmed they were not recording the hearing. The agents were provided the opportunity to present their affirmed testimony and make submissions to me.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue 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?

Background and Evidence

While I have turned my mind to all the documentary and digital evidence and the testimony of the agents, not all details of the submissions and/or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

The agents testified that the police department executed a Warrant to Search the rental unit, due to certain offenses under the Criminal Code of Canada. Included in the alleged offenses were:

- Careless Use, Storage, Handling and Transport of Firearm
- Unauthorized possession of a firearm
- Possession of property obtained by crime.

Filed in evidence was a copy of the Warrant to Search.

Filed in evidence was a copy of a police statement, sent to the landlord.

The police statement reported that they seized stolen items, some of which had been returned to the owners, and others, which included a Kevlar vest, a rifle round, and a rifle magazine, whose owners have not been located.

The police report stated that the rifle was not stored properly, which is a criminal code offense.

The police report also listed a large number of items seized, which were thought to be stolen, including construction site materials and equipment.

Analysis

Based on the testimony provided during the hearing, the documentary evidence, and on a balance of probabilities, I find I am satisfied that the tenant has seriously jeopardized

the health or safety or a lawful right or interest of the landlord and has committed illegal acts in violation of the Criminal Code of Canada.

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 actions of the tenant and the documentary evidence before me to support that the tenant was in possession of many items confirmed to be stolen and many other items thought to be stolen, which included firearms and attachments. I find the evidence supports that the tenant has committed criminal acts, which pose a significant and serious threat to the safety of other tenants in 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, March 28, 2022, pursuant to sections 56 and 62(3) of the Act.

Conclusion

The landlord's application is successful.

The tenancy ended this date, March 28, 2022.

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

This order may be enforced through 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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: March 28, 2022