



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 landlords' 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.

The landlords, an agent for the landlord, AS (agent) and a son of the landlords, AS (son) 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 Dispute Resolution Proceeding dated March 2, 2022 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence were served on the tenant on March 2, 2022 at the rental unit and the landlords submitted photo evidence dated March 2, 2022 showing that the documents were posted to the rental unit door. Given the above, I find the tenant was duly served under the Act on March 5, 2022 pursuant to section 90 of the Act. As the tenant did not attend the hearing and was deemed served, I consider this application to be undisputed by the tenant.

The agent testified that all videos and photo evidence was served on the tenant via iMessage and that the tenant received the videos and photos as the tenant attended the landlords' front door to ask why they were sent the videos and photos.

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. None of the participants had any questions about my direction pursuant to RTB Rule 6.11.

Furthermore, the agent confirmed the email address of the landlords 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 decision will be mailed to the tenant.

Issues to be Decided

- Are the landlords 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, are the landlords 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 May 15, 2020. The tenancy agreement indicates that the tenant paid a security deposit of \$750.00, which was confirmed by the agent.

The landlords wrote in their application the following:

Tenant has been horrible since moving in and has costed us more to keep her here instead not to! She's always under the influence and recently we have had the police and fire department come over multiple times because she has nearly lighted the home on fire 2 times already. One time was because she left the stove on and purposely went to sleep and the fire department had to get in another way trough our home to stop it from expanding and just today she was about to start another fire at 5am.

The landlords submitted 7 videos, and many photos in evidence. The agent testified that the police have attended the rental unit between 10 and 20 times since the tenant moved in and that the fire department has attended twice due to two fire incidents.

The agent stated that the first fire was on January 27, 2022 when the tenant left the stove on and purposely went to sleep. The second incident was shown on video on February 17, 2022 and shows between 5:52 a.m. and 5:54 a.m. the tenant was creating what looked to be a large fire by layering wood and boxes, followed by pouring a liquid that appeared to be lighter fluid on the wood and boxes, which was right next to the family home. The agent stated that the only reason the tenant stopped was when his mother yelled at the tenant to stop. The family was afraid that the tenant was committing arson and fear for their safety.

The landlords confirmed that the tenant has not paid any rent for March 2022 and for months before that too.

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 landlords.

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 landlords to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant to be completely unreasonable and appear to support that the tenant was attempting to commit arson and that the tenancy must end. Furthermore, I find that attempted arson alone is reason enough to end this tenancy as this is the second fire incident since January 2022, either of which could have resulted in major property damage and/or loss of life. Therefore, pursuant to section 56 of the Act, I grant the landlords an order of possession for the rental unit effective **two (2) days** after service on the tenant. I find the tenancy ended the date of this hearing, March 17, 2022 pursuant to section 62(3) of the Act.

The filing fee is granted pursuant to section 72 of the Act. I reduce the tenant's \$750.00 security deposit to \$650.00 in full satisfaction of the \$100.00 filing fee pursuant to section 62(3) of the Act.

Conclusion

The landlords' application is successful.

The tenancy ended this date, March 17, 2022.

The landlords are granted an order of possession effective two (2) days after service on the tenant. The tenant must be served with the order of possession.

This decision will be emailed to the landlords and will be sent via regular mail to the tenant. The order of possession will be emailed to the landlords for service on the tenant. This order may be enforced through the Supreme Court of British Columbia.

As the landlords' application had merit, I grant the landlords the recovery of the \$100.00 filing fee. I authorize the landlords to deduct the amount of \$100.00 the tenant's \$750.00 security deposit in full satisfaction of the recovery of the cost of the filing fee pursuant to section 62(3) of the Act. I find the tenant's security deposit is now \$650.00 as a result.

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 17, 2022

Residential Tenancy Branch