



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREENBRIER HOLDINGS C/O TRIBE
MANAGEMENT and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution (application) under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to section 56 of the Act because the tenant poses an immediate and severe risk to the rental property, other occupants, or the landlord; and
- recovery of the filing fee.

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

As the tenant did not attend the hearing, service of the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The landlord filed the Canada Post receipt and tracking number proving they served the tenant with the application package by registered mail on May 27, 2022, to his home address and a search of the Canada Post system indicated that the tenant collected the registered mail on May 31, 2022.

I accept the landlord's undisputed evidence and find that the tenant was served notice of this hearing in a manner complying with section 89(1)(c) of the Act. The hearing proceeded in the tenant's absence.

The agent was provided the opportunity to present her affirmed testimony, to refer to their documentary evidence, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules. However, not all details of the submissions and or arguments are reproduced here; further, only the evidence specifically referenced and relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a One Month Notice to End Tenancy?

Is the landlord entitled to an Order of Possession of the rental unit and recovery of the filing fee?

Background and Evidence

The tenancy started on April 1, 2020, for a monthly rent of \$1,300. The rental unit is in a multi-unit apartment building.

In support of their application, the agent submitted a signed statement, verified at the hearing, containing the allegations against the tenant.

The agent testified that on May 19, 2022, while she was cleaning around the building, she saw the tenant coming towards her in the “blink of an eye” and that he grabbed her chest. The agent said she could feel the tightness on her jacket and she became scared. The agent testified that she was in shock at the physical attack and in many years of being a building manager, had never encountered this type of behaviour.

The agent submitted and testified that had the contractor, who wrote a witness statement, not been present that day to pull the tenant off, she would have been hurt very badly or killed.

The agent submitted that the contractor encouraged her to call the police once she calmed down, which she did. The landlord filed a copy of the police report. The agent submitted that the witness also spoke to the police, as he had witnessed the event.

The agent said she is still in shock to this day and very afraid of the tenant.

The witness statement was filed in evidence. In this statement, the contractor indicated he was attending the building on May 19, 2022, to go over the scope of the work to be done. At approximately 11:40 am, the contractor relates that he saw the tenant from (rental unit #) go past them, at which time he heard him yelling about a door. The contractor wrote that he observed the tenant grab the agent's jacket and pushed her back against the wall, yelling the entire time. The contractor wrote he pushed himself between the tenant and the agent and told the tenant to not touch the agent. The contractor wrote that his colleague, another contractor also got in between the tenant and the agent; however, the tenant grabbed the agent again.

After the tenant finally left, the contractor wrote that he told the agent to call the police. While the agent was talking to the police, the agent handed the phone so he could also talk to the police. The contractor wrote that he provided the details of the assault to the officer. The contractor wrote that two police officers were dispatched to investigate.

The landlord submitted other documentary evidence showing threats and damage caused by the tenant.

The police report filed in evidence, stated that the tenant grabbed the agent by the coat.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

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.

In order to establish grounds to end the tenancy early under section 56 of the Act, the landlord must not only establish that they have cause to end the tenancy, but that it would be unreasonable or unfair to require the landlords to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the undisputed testimony of the landlord, I find that the landlord has met that burden.

I find the landlord submitted sufficient evidence that the tenant physically assaulted the landlord's agent and that the assault was unprovoked. I also find that had it not been for the contractors onsite the day in question, the landlord's agent likely would have sustained serious bodily harm. I find this physical assault has caused the agent to fear for her safety and well-being.

I therefore find the landlord submitted sufficient evidence that the tenant seriously jeopardized the health or safety or a lawful right or interest of the landlord.

Due to the above, I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a 1 Month Notice to End Tenancy to take effect.

I therefore grant the landlord's application to end this tenancy early.

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 order the tenancy ended the date of this hearing, June 16, 2022, pursuant to sections 56 and 62(3) of the Act.

I grant the landlord recovery of their filing fee of \$100.

Conclusion

The landlord's application is successful.

I ordered the tenancy ended this date, June 16, 2022.

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

If it becomes necessary for the landlord to enforce the order of possession of the rental unit, **the tenant is cautioned that they may be liable for bailiff costs.**

The landlord is granted a monetary order of \$100, for recovery of their filing fee.

I authorize the landlord to deduct \$100 from the tenant's security deposit, if they choose to redeem their monetary award in that manner. If so, the monetary order is of no force or effect.

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: June 16, 2022