



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPITAL REGION HOUSING
CORPORATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the Landlord's application under the *Residential Tenancy Act* (the "Act") for:

- an order for early end to tenancy and an Order of Possession of the rental unit pursuant to section 56; and
- authorization to recover the filing fee for this application from the Tenant pursuant to section 72.

The Landlord's agent KL attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, and to make submissions.

The Tenant did not attend this hearing. I left the teleconference hearing connection open until 1:40 pm in order to enable the Tenant to call into the hearing scheduled to start at 1:30 pm. I confirmed that the correct call-in numbers and participant access code had been provided in the notice of dispute resolution proceeding. I used the teleconference system to confirm that KL and I were the only ones who had called into the hearing.

I advised KL that the Residential Tenancy Branch Rules of Procedure (the "Rules of Procedure") prohibit unauthorized recordings of dispute resolution hearings. KL confirmed that she was not recording this dispute resolution hearing.

Preliminary Matter – Service of Dispute Resolution Documents

KL testified that the notice of dispute resolution proceeding package and the Landlord's supporting documentary evidence (collectively, the "NDRP Package") were posted to the Tenant's door on June 3, 2022. The Landlord submitted a signed Proof of Service in

form #RTB-9. Based on the foregoing, I find that the Tenant has been sufficiently served with the NDRP Package in accordance with section 71(2) of the Act, Rule 10.3 of the Rules of Procedure, and section 2(b) of the director's standing order dated March 1, 2021.

Issues to be Decided

1. Is the Landlord entitled to end the tenancy early and an Order of Possession?
2. Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the accepted documentary evidence and the testimony presented, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of this application and my findings are set out below.

The Landlord submitted a copy of the parties' tenancy agreement into evidence. KL confirmed the particulars of the tenancy as follows:

- The tenancy commenced on April 1, 2019 and is month-to-month.
- Rent is \$895.00 per month, due on the first day of each month. The Tenant pays \$375.00 per month and the balance is subsidized by BC Housing.
- The Tenant paid a security deposit of \$200.00, which is held by the Landlord.

KL testified that on March 1, 2022, the Tenant threw an office chair off their balcony onto the property's fire lane below, hitting several parked vehicles.

KL stated that subsequently, the Landlord attempted to gain access to all units in the building for an annual inspection. KL stated that on May 5, 2022, the Tenant jammed their door and refused the Landlord's agents entry into the rental unit.

KL stated that on May 6, 2022, the Landlord tried to work with a local health authority to ensure that the Tenant received support. KL explained that there were serious concerns about the Tenant's mental health. KL stated she was told by LP, a health authority employee who has worked with the Tenant for a few years, that no one should be entering the rental unit without police. KL also explained that the health authority declined to send someone to attend at the rental unit due to safety reasons.

KL testified that on May 26, 2022, it was observed that the Tenant had removed the baseboard heaters in the rental unit and had placed them on the balcony. KL testified that this is incredibly concerning because the heaters are fixtures and involve electrical elements, which even the property caretakers do not do work on.

KL testified that the Tenant has also covered the windows with aluminum foil. KL explained that the Landlord is gravely concerned about the condition of the rental unit but cannot enter the unit to inspect it. KL stated that the Landlord is unable to ensure safety for the complex without ending this tenancy.

KL testified that on June 3, 2022, police attended at the rental unit to serve warrants on the Tenant.

The Landlord submitted copies of warning letters to the Tenant, email correspondence, and photographs of the damage caused by the Tenant into evidence.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

1. Is the Landlord entitled to end the tenancy early and an Order of Possession?

In this case, the Landlord bears the onus of proving that this tenancy should be ended early and an Order of Possession be granted.

Section 56 of the Act states as follows:

Application for order ending tenancy early

56(1) A landlord may make an application for dispute resolution requesting

(a) an order 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) an order granting the landlord possession 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.

Based on KL's testimony and the evidence submitted by the Landlord, I am satisfied that an early end to the tenancy is warranted in the circumstances. I find the Tenant has caused extraordinary damage to the residential property and has put the landlord's property at significant risk by removing the baseboard heaters, which are fixtures with electrical elements, and by leaving them outside on the balcony. Accordingly, I find the Landlord has met the onus of proving that this tenancy should end early under sections 56(2)(a)(iii) and (v) of the Act.

In addition, I find the Landlord has established, pursuant to section 56(2)(b) of the Act, that it would be unreasonable and unfair for the Landlord to wait for a notice to end the tenancy under section 47 to take effect. I am satisfied that the Tenant poses a serious and immediate risk to the Landlord's property. The Landlord has also been unable to inspect the rental unit as the Tenant has blocked off entry into the unit. Therefore, I find it would be unreasonable and unfair for the Landlord to wait for a notice under section 47 to take effect.

Having found the requirements in sections 56(2)(a)(iii), 56(2)(a)(v) and 56(2)(b) of the Act to be met in the circumstances, I conclude that this tenancy should be ended early.

2. Is the Landlord entitled to recovery of the filing fee?

As the Landlord has been successful in this application, I grant the Landlord's claim for recovery of the \$100.00 filing fee under section 72(1) of the Act.

Pursuant to section 72(2)(b) of the Act, I order that the Landlord is authorized to deduct \$100.00 from the \$200.00 security deposit held by the Landlord in full satisfaction of the amount awarded in this application.

Conclusion

The Landlord has met the burden of proving that the tenancy should end early.

Pursuant to section 56(2) of the Act, I order that the tenancy is ended the date of this decision, July 4, 2022.

Pursuant to section 56(2), I grant an Order of Possession to the Landlord effective two (2) days after service upon the Tenant. The Tenant must be served with this Order as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord is authorized to deduct \$100.00 from the Tenant's security deposit on account of the filing fee awarded in this application. The balance of the Tenant's security deposit shall be dealt with in accordance with the Act, the Residential Tenancy Regulation, and the parties' tenancy agreement.

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: July 4, 2022

Residential Tenancy Branch