



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1121695 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **ET, FFL**

Introduction

This hearing dealt with an application filed by the landlord pursuant the *Residential Tenancy Act* (the “Act”) for an order to end the tenancy early due to circumstances where there is an imminent danger to the health, safety, or security of a landlord, tenant or the landlord’s property pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open throughout the hearing which commenced at 9:30 a.m. and ended at 10:00 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

The landlord attended the hearing, represented by building manager, CH (“landlord”). The landlord was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that he served the tenant with the Notice of Dispute Resolution Proceedings package on July 27, 2022 by posting a copy to the tenant’s door. The package included a USB stick containing digital evidence which the landlord verbally confirmed from the tenant that the tenant was able to view. A witness signed proof of service document was also provided as evidence. The tenant is deemed served with the Notice of Dispute Resolution Proceedings package on July 30, 2022, 3 days after it was posted to his door pursuant to sections 89 and 90 of the *Act*.

Issue(s) to be Decided

Has the landlord provided sufficient evidence to prove there is an imminent danger to the health, safety, or security of a landlord, tenant or the landlord’s property?

Background and Evidence

The landlord gave the following undisputed testimony. The tenancy began on July 1, 2021 with rent set at \$825.00 per month payable on the first day of each month. A security deposit of \$412.50 was collected from the tenant which the landlord continues to hold. Since moving in, many complaints were made about the tenant, however none are in writing.

The landlord testified that the tenant punched a camera and forcefully pointed it downward so that he could shut the power off at another tenant's unit. The date of the incident was not remembered by the landlord, however the landlord provided video evidence of the tenant breaking the camera. The camera lost its ability to pan around after the tenant forcefully readjusted it, stripping the gears that make it turn. The landlord testified that the camera had to be replaced.

On May 30th, the tenant threatened the landlord while carrying a large tool, described as a long extendable socket wrench by the landlord. The landlord provided a video he recorded of the incident as evidence.

On June 24th, the tenant lost the keys to his unit and instead of requesting another from the landlord, the tenant removed the original deadbolt and replaced it with his own. The tenant did not provide a key to the landlord and the landlord testified that the tenant did not have permission from the landlord to change the locks. On July 29th, the tenant lost the keys to this new deadbolt, and broke his window to access the unit. As of today's date, the tenant now leaves his door unlocked, since he hasn't found his key.

On July 26th, the building's security camera recorded the tenant and another building occupant fighting. The tenant is seen punching and kicking the other occupant. In a second clip, the tenant is seen forcefully opening the locked glass entrance door to the building without using an access fob. The door is not supposed to be opened without first tapping the fob against the access panel. The landlord did not specify what damage was caused to the door by forcefully opening it without tapping the access panel with the fob.

Lastly, the tenant has written comments on his front door. A photo of the door was provided as evidence. The landlord testified that the markings on the door are now worse, since it has continued on since filing this application. The landlord testified that the tenant has also marked up the walls inside his unit with writing, however the landlord did not provide photos of this into evidence.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.
- put the landlord's property at significant risk;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;
- engaged in illegal activity that 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;
- engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property, **and**

it would be unreasonable, or unfair to the landlord, the tenant 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.

Residential Tenancy Branch Policy Guideline PG-51 [Expedited Hearings] provides further clarification at part B:

... there are circumstances where the director has determined it would be unfair for the applicant to wait 22 days for a hearing. These are circumstances where there is an **imminent danger to the health, safety, or security of a landlord or tenant**, or a tenant has been denied access to their rental unit. (bold emphasis added)

...

Applications to end a tenancy early are for **very serious breaches only** and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker. The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).

I find the landlord has provided evidence of seriously jeopardizing the health or safety or a lawful right or interests of the landlord or another occupant. I make this finding based on the undisputed evidence of the landlord, corroborated by video evidence of the tenant fighting with another tenant. In the video, the tenant appears to bash the other tenant's head and kick him while lying on the ground. The landlord provided additional video evidence sufficient to satisfy me the tenant jeopardized the safety of the occupants of his rental unit when he forced the glass doors to the building open without using an access fob the same night.

Moreover, from the video evidence provided, I am satisfied the tenant seriously jeopardized the health and safety of the landlord when he verbally threatened the landlord while holding a large metal tool. While the incident didn't result in an attack, the landlord couldn't predict whether the tenant would follow through with the threat that was recorded.

Lastly, based on the undisputed testimony of the landlord, the pictures of the tenant's door, and the video evidence that the tenant physically punched or forcefully repositioned a security camera, I am satisfied the tenant caused extraordinary damage to the residential property. I accept the landlord's undisputed testimony that he had to replace the security camera and that the tenant's door is even more graffiti covered than when the picture was taken.

Due to the violent nature of the fight with the other tenant and the threats made to the landlord, I am satisfied it would be unreasonable for the landlord and the other occupants of the building to wait for a notice to end tenancy for cause issued under section 47 to take effect. Consequently, I grant the landlord an order of possession effective 2 days after service upon the tenant.

As the landlord's application was successful, the landlord is also entitled to recovery of the \$100.00 filing fee for the cost of this application. In accordance with the offsetting provisions of section 72, the landlord may retain \$100.00 of the tenant's security deposit in satisfaction of the monetary award granted to the landlord.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenant**. Should the tenants or anyone on the premises fail to comply with this Order, this Order may be filed and enforced in the Supreme Court of British Columbia.

The landlord may retain \$100.00 of the tenant's security deposit to recover the filing fee for this application.

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: August 12, 2022

Residential Tenancy Branch