



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's 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 for health or safety reasons under section 56 of the Act, and to recover the cost of the filing fee.

On September 12, 2022 an agent for the landlord, MR (agent) and a property manager for the landlord, MC (manager) attended the teleconference hearing and gave affirmed testimony. The agent and manager were also 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.

As the tenant did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated August 25, 2022 (Notice of Hearing), the application and documentary evidence were considered. The agent provided affirmed testimony that the Notice of Hearing, application and documentary evidence were served on the tenant by posting to the tenant's door on August 26, 2022 at 10:00 a.m. Pacific Time. The agent also stated that this was witnessed by tenant support worker, JK. Documents sent by posting to the rental unit door are deemed served 3 days after they are posted pursuant to section 90 of the Act. Based on the undisputed testimony of the agent and manager and the undisputed documentary evidence, all of which confirm that the tenant was served, I find the tenant was deemed service on August 29, 2022.

As the tenant did not attend the hearing, I consider this matter to be unopposed. Words utilizing the singular shall also include the plural and vice versa where the context requires.

Preliminary and Procedural Matter

The agent confirmed the landlord's email address 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 landlord did not have an email address for the tenant, the decision will be sent by regular mail to the tenant.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession?
- If yes, is the landlord entitled to the recovery of the cost of the filing fee?

Background and Evidence

A copy of the tenant agreement was submitted in evidence. A month-to-month tenancy began on December 15, 2020. The tenant's portion of the monthly rent is \$375.00 and is due on the first day of each month.

The agent confirmed the following, as stated on their application:

On July 13, 2022 at 11:15 PM tenant was seen on camera in the hallway of the 4th floor ripping a syringe container off the wall then rushed onto the fire exit and climbed the metal railings. When staff got tenant off fire exit tenant barged into neighbors unit and punched and kicked neighbor until they were unconscious. Tenant then grabbed a large sword threatened to kill himself and staff and chased a staff member who locked themselves in the washroom and you attacked door until police arrived

[reproduced as written]

The agent and manager confirmed that the initials of the neighbour the tenant attacked is EY, and the staff member attacked is AP. The agent confirmed that the incident lasted until after 1:30 a.m. in the morning of July 14, 2022. The agent testified that the tenant was arrested by the police and released from custody at around 6:00 a.m.

The agent testified that they are seeking criminal charges against the tenant due to the assault on the other tenant and the attack on the staff member. The agent also writes in the incident report submitted in evidence that the tenant attacked the door where staff member AP was hiding, with the sword until police arrived.

The agent was asked if the tenant paid rent for September 2022, to which the agent confirmed that the tenant has not paid September 2022 rent.

Analysis

Based on the undisputed documentary evidence and the undisputed testimony provided during the hearing, and on a balance of probabilities, I find, and I am satisfied that a person permitted on the residential property has engaged in illegal activity, assault against another tenant, that has adversely the quiet enjoyment, security, safety and physical well-being of another occupant of the residential property. Furthermore, I find the tenant made threats of death to an agent of the landlord.

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 and tenant EY to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant by assault tenant EY, then brandishing a sword and attacking the door where staff member AP was hiding to be unreasonable and serious enough to end this tenancy. I find there is no room for violence against other tenants or staff members of the landlord during a tenancy.

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 on the tenant. I find the tenancy ended the date of this hearing, **September 12, 2022** pursuant to section 62(3) of the Act.

As the landlord's application is successful, I grant the landlord **\$100** for the recovery of the cost the filing fee under section 72 of the Act. I authorize the landlord to retain \$100 from the tenant's \$511 security deposit pursuant to sections 38 and 67 of the Act in full satisfaction of the recovery of the cost the filing fee. I find the tenant's security deposit is now \$411 effective immediately pursuant to section 62(3) of the Act.

Conclusion

The landlord's application is fully successful. The tenancy ended this date, September 12, 2022. The landlord is granted an order of possession effective two (2) days after service on the tenant.

The filing fee is granted, and the tenant's security deposit is now reduced to \$411 as a result and as noted above.

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

I caution the tenant that they can be held liable for all costs related to enforcing the order of possession.

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: September 12, 2022

Residential Tenancy Branch