



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BRIGHTSIDE COMMUNITY HOMES
FOUNDATION and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **ET**

Introduction

This hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for an early end to the tenancy and an Order of Possession pursuant to Section 56 of the Act.

The hearing was conducted via teleconference. The Landlord attended the hearing at the appointed date and time and provided affirmed testimony. The Tenant did not attend the hearing. 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 was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlord that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord testified that she was not recording this dispute resolution hearing.

The Landlord served the Notice of Dispute Resolution Proceeding package and evidence for this hearing to the Tenant by posting the notice on his door on September 21, 2022 (the "NoDRP package"). The Landlord uploaded a witnessed Proof of Service form #RTB-9 attesting to service of the NoDRP package. I find that the Tenant was deemed served with the documents for this hearing three days after posting, on September 24, 2022, in accordance with Sections 89(2)(d) and 90(c) of the Act.

Issue to be Decided

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

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord testified that this periodic tenancy began on May 1, 2018. Monthly subsidized rent is \$595.00 payable on the first day of each month. A security deposit of \$297.50 was collected at the start of the tenancy and is still held by the Landlord. The Landlord believes the Tenant has abandoned his rental unit, but it has not been confirmed.

The Landlord said this residential building is for seniors and people with disabilities. She stated that the Tenant has a volatile personality, and they have received numerous complaints from other tenants getting harassed and intimidated by the Tenant.

On April 17, 2022, two other elderly women were in the lobby talking when the Tenant came out of the elevator. The Tenant felt he heard the women talking about him and he threw a small bottle of some sort in the womens' direction. The object did not hit them, but disturbed them a great deal, and the Landlord felt it cannot be tolerated if it amounts to harassment, violence, disturbance or verbal abuse.

On April 26, 2022, the Landlord's 24-hour emergency number was called by the Tenant indicating that help was needed with a flood in the Tenant's rental unit. When technicians attended the unit and were cleaning up the water, they were abruptly asked to leave the rental unit as the Tenant was expecting visitors. The Landlord wrote that this conduct prevented the Landlord from attending to their obligations to repair and maintain the rental unit. On a subsequent occasion, the Tenant denied access to the rental unit for needed maintenance due to the flood in the suite.

In mid June 2022, a tenant brought to the Landlord's attention that the Tenant was acting erratically, pounding on doors in the hallway, and asking neighbours for money. When the Tenant returned to his apartment, he was swearing at the top of his lungs and banging things around in the rental unit. This tenant reported that the Tenant pounded

on her door, but she was too terrified to open the door. He was calling her names through the door, and the tenant called 9-1-1. The police arrived promptly. It is not the first time this tenant has called the police about the Tenant. She also reports it is upsetting seeing the Tenant's partner around the building, slumped over in a drug-induced state which is often. She states that sharing a common hallway with this Tenant, leaves her and her daughter in a state of constant fear and anxiety.

In the last week of June 2022, one tenant who uses a wheelchair was recently assaulted by the Tenant. The Tenant asked the victim if he could borrow some money to "feed my daughter" and that he would repay the tenant next week when the GST cheques come in. The victim gave the Tenant some money but told him he would like it returned as he needs it for his groceries. The report stated that after 10 days, which was one week after the tenant had received his GST cheque, he called the Tenant and politely asked for the return of his money. The Tenant berated him. The tenant has asked on more than three occasions, and the Tenant has threatened him, assaulted him and called him derogatory names. This tenant filed a police report after the Tenant's assaultive conduct.

The Landlord wrote the Tenant on August 9, 2022, acknowledging the voicemails left by the Tenant in the Landlord's office. She stated his behaviour is quite abusive and threatening to their staff. This letter stated:

...

Yesterday, you threatened to damage the mailboxes in the lobby of the rental building you live in. This conduct is not acceptable, and it is disturbing to us as a landlord. Furthermore, it raises our concerns about the negative impact your behavior has/had on others in the building.

A poster with information was posted in the common areas of your building. I have included the sign in this letter. Please refer to the claims number for our adjuster handling the flood for [name of business].

This should help you with compensation and support regarding the flood that originated in your unit.

In a letter dated August 18, 2022 to the Tenant, the Landlord noted that they brought to the Tenant's attention his history of abusive conduct on other tenants on May 12, 2022 and on June 4, 2022. The Landlord reminded the Tenant that they must ensure to

protect all the tenants' rights to quiet enjoyment, and the Tenant is not helping this cause.

The Landlord uploaded other letters written by various other tenants that document verbal assaults by the Tenant on them. Some of these people suffer from PTSD and are afraid that the Tenant will find out where they live and attempt to further harass them.

The Landlord is seeking an early end of tenancy, and an Order of Possession against the Tenant.

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, in this application, is on the landlord to prove, on a balance of probabilities, the grounds on which this application for an early end to tenancy were based.

As this hearing was conducted pursuant to Rules of Procedure 7.3, in the Tenant's absence, all the Landlord's testimony is undisputed. The Tenant did not upload any evidence for this matter. Rules of Procedure 7.3 states:

Consequences of not attending the hearing: *If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

In this matter, Section 56 of the Act is relevant:

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.*

Section 75 of the Act states:

Rules of evidence do not apply

- 75** *The director may admit as evidence, whether or not it would be admissible under the laws of evidence, any oral or written testimony or any record or thing that the director considers to be*
- (a) necessary and appropriate, and*
 - (b) relevant to the dispute resolution proceeding.*

The Landlord uploaded many documents attesting to the significant interference and unreasonable disturbances the Tenant has engaged in during his tenancy. I find that the Tenant's conduct and actions especially relayed by the male wheelchair tenant's emailed description of the Tenant's conduct in the common area of the building have significantly interfered with and unreasonably disturbed other occupants and the Landlord of the residential property. The Tenant has engaged in requesting money from other tenants. The female tenant who resides across from the Tenant lives in constant fear and anxiety, and her daughter will not leave the building alone as she is fearful that she will run into the Tenant. I also find that the Tenant's calls for flood repair in his rental unit must be attended to by the Landlord as it is their obligation to repair and maintain the residential property.

Based on the totality of the undisputed evidence of the Landlord, I am satisfied that the Landlord has met their burden of proving on a balance of probabilities that the Tenant's tenancy must end early. Pursuant to Section 56(2)(b), I find it would be unreasonable, and unfair to other occupants and the Landlord of the residential property to have to wait for a notice to end the tenancy under Section 47 of the Act to take effect.

I find the Landlord has satisfied me that an order to end this tenancy early is warranted and they are entitled to an Order of Possession, which will be effective two (2) days after service on the Tenant.

Conclusion

The Landlord is granted an Order of Possession, which will be effective two (2) days after service on the Tenant. The Order of Possession may be filed in and enforced as an Order of the British Columbia Supreme Court.

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.

Dated: September 26, 2022

Residential Tenancy Branch