



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord's agent. The tenant did not appear.

The landlord's agent testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, by posting to the door of the rental unit on August 26, 2022, in accordance with Section 89(2) of the Act, and that this service was witnessed by a third party.

The landlord's agent stated that they spoke to the tenant after it was received.

The landlord's agent testified that the tenant's was served their evidence by registered mail on August 26, 2022 and was left at the front counter of their office by Canada Post as that is where the mail is delivered. The landlord's agent stated that the package was given to the tenant in person.

Based on the testimony of the landlords, I find that the tenant has been sufficiently served with the documents pursuant to the Act.

Issue to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession to end the tenancy early and without notice, **pursuant to Section 56 of the Act.**

Background and Evidence

The landlords provided a copy of a tenancy agreement signed by the parties. The tenancy commenced on October 1, 2020. Rent in the amount of \$375.00 was payable on the first of each month.

The landlord's agents testified that on August 15, 2022, at about 1:20 PM the tenant's rental unit was on fire. The agents stated that the staff attempted to put out the fire; however, it was significant, and the building had to be evacuated and the fire department attended.

The landlord's agent testified that on investigation the fire department found the tenant had removed the smoke detector in the rental unit and had left a torch on fire on their mattress causing the fire and extensive damage to the rental unit, hallway and other units as the sprinkler system was engaged and multiple occupants were displaced.

The landlord's agent testified that then tenant stated that someone must have broken into the rental unit and set the fire. The agent stated that they reviewed the video footage which shows the tenant leaving their rental unit 20 minutes before the smoke detectors went off in the hallway and no one is seen going into the rental unit before the fire was discovered.

The landlord's agent testified that when they informed the tenant that the fire was caused by a torch the tenant stated they did not remember using it that day.

Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or
 - 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 rental unit or residential property;
- b) And 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 to take effect.

I find that the tenant seriously jeopardized the health or safety or lawful right or interest of the landlord and another occupant and put the landlord's property at significant risk, when the rental unit was on fire due to a blowtorched being turned on, and then left on the bed to burn.

The video shows that no one is seen entering the tenant's rental unit after the tenant vacated 20 minutes earlier. Therefore, I find it more likely than not that the fire started as a result of the action and neglect of the tenant.

I find It would be unreasonable and unfair to the landlord or other occupants of the residential property, to wait for a notice under section 47 of the Act take effect as this has the appearance to be deliberate. Further, the tenants action caused considerable damage to the property and displaced other occupants.

Conclusion

I find the landlord is entitled to an order of possession, pursuant to **section 56** of the Act, effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

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: September 09, 2022

Residential Tenancy Branch