



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Eastleigh Village
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **ET, FFL**

Introduction

This is an application by the landlord to end the tenancy early by way of an expedited hearing and seeking;

- an order of possession for the subject rental property
- recovery of the filing fee

The landlord attended the hearing represented by TZ and counsel MM. The tenant did not attend. All parties present were given a full opportunity to be heard, to present their sworn testimony and to make submissions under oath.

The landlord confirmed he was not recording the hearing pursuant to Rule of Procedure 6.11. The landlord was affirmed.

The landlord testified they served the Notice of Dispute Resolution by registered mail on both tenants. As part of their evidentiary package the landlord included a photo of registered mail receipts dated September 24, 2022. Pursuant to sections 89 and 90 of the *Act* the tenants are deemed to have been served with the Notice and supporting materials on September 29, 2022.

Issue(s) to be Decided

1. Is the landlord entitled to an order ending the tenancy early?
2. Is the landlord entitled to an order of possession for the rental property?
3. Is the landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy commenced on February 1, 2021, for a fixed term until August 1, 2021 and continued on a month to month basis thereafter. Rent is \$1,200.00 per month and the landlord holds a security deposit of \$600.00 in trust. The tenant still occupies the residence.

The landlord stated that the tenants entirely removed the balcony door to their second floor residence. MM referred to a photograph taken of the subject rental property taken from the outside of the residence. It depicts the balcony door entrance covered in plastic. The landlord stated that the balcony door itself was placed outside the residence on the balcony. MM also referred to three written complaints dated August 5, August 19, and August 20, 2022, from other tenants in the building. All the complaints referred to individuals entering the subject rental property through the patio door. The complaints expressed concerns about safety and security as the subject rental property is easily accessible through the balcony door opening.

The landlord stated that the balcony door is still completely removed. And the opening is covered in plastic.

Analysis

Section 56 of the Act permits a landlord to make an application for an expedited hearing, stating:

- 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; 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.

The photograph provided by the landlord depicts a balcony door covered in plastic which is easily viewed from outside the building. Additionally, I have the written complaints regarding unknown people entering the residence through the open balcony door. Such easy access into the building through an unsecure entrance observable from outside the building seriously jeopardizes and adversely affects the safety of other tenants in the building, should intruders be able to access the building through the balcony entrance of the subject rental property. One of the complaints details a non tenant accessing the rental property through the balcony entrance. Once inside, a non resident would have access to not only the rental property, but to the entire building.

I find it would be unreasonable in the circumstances to require a landlord to wait for a notice under section 47 of the Act to take effect given the evidence that non residents have already accessed the rental property and could do so again. Requiring the landlord to wait for a notice under section 47 to take effect would under section 56(2)(a)(ii) of the Act would seriously jeopardize the safety of the other building occupants by creating an immediate and ongoing risk of non residents entering the building.

I find that the landlord is entitled to an order ending the tenancy early, and an order of possession for the rental property.

As the landlord was successful in their application, they are also entitled to recover the filing fee for their application. Using the offsetting provisions contained in section 72 of the Act, I allow the landlord to retain \$100.00 from the tenant's security deposit in full satisfaction for a return of the filing fee.

Conclusion

The Landlord is granted an order of possession which will be effective two days after it is served on the Tenant. The order of possession must be served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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: October 13, 2022

Residential Tenancy Branch