



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding IMH POOL XIX LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on December 30, 2022 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk; and
- a monetary order granting the recovery of the filing fee.

The Landlord's Counsel A.C., the Landlord's Agents D.P., M.T., A.B., the Landlord's Witness M.S., and the Tenant attended the hearing at the appointed date and time. At the start of the hearing, the Tenant confirmed receiving the Landlord's Notice of Hearing and documentary evidence. As such, I find these documents were sufficiently served pursuant to Section 71 of the Act.

The Tenant stated that he was unable to submit evidence in response to the Application as he experienced issues with his phone and computer. As the Tenant did not submit any evidence for my consideration, I find only the Tenant's oral testimony will be considered during the hearing.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules of Procedure). However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties confirmed the following; the tenancy began on January 1, 2021. Currently, the Tenant pays rent in the amount of \$1,446.00 which is due to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$700.00 which the Landlord continues to hold. The Tenant continues to occupy the rental unit.

The Landlord stated that he is seeking to end the tenancy early as the Tenant has;

“significantly interfered with and unreasonably disturbed other occupants; - seriously jeopardized the health, safety, rights and interests of the landlord and other occupants; - put the property at significant risk; and - caused extraordinary damage to the property.”

The Landlord’s Counsel and Agents submit the following;

On November 28, 2022 the Tenant reported to the Landlord that he was having electrical issues. The Landlord investigated along with an electrician on December 1, 2022 to find that the Tenant has tampered with the electrical system in the rental unit by removing all electrical plugs, switches, electrical panel cover, and fuses. This poses a significant risk to the Tenant, the rental property, and other occupants who reside at the rental property given the potential of arcing in the circuit which could cause a fire. The Landlord provided pictures of the rental unit and a statement from the electrician in support.

On December 2, 2022 the Tenant pulled a fire alarm pull station at the rental property as he believed that his rental unit was on fire. Upon arrival, the Fire Department determined that there was no fire, and that the Tenant had removed his smoke alarm in the rental unit and that there were wires sticking out.

On December 3, 2022 the Tenant was found flailing on the ground in the lobby incoherently, screaming and swearing. The Tenant was looking for his “detonator” and was threatening to blow up the rental property. Police attended and forcibly removed the Tenant. The Landlord provided video of the event in support.

On December 9, 2022 the Tenant complained to the Landlord that there was smoke coming out of the smoke detector. The Landlord notified the Fire Department who attended, however, the Tenant refused to allow access to the rental unit.

On December 11, 2022 the Tenant notified the Landlord that he had conducted an alteration to the rental unit. The Landlord received pictures from the Tenant of a wall in the rental unit that had been completely removed, exposing the studs, and plumbing in the wall as the Tenant had been convinced that the neighbouring unit had built a hatch to get into the Tenant's rental unit.

The Landlord provided written statements from several occupants and staff at the rental property expressing their concerns in support.

The Tenant responded by stating that he felt as though he was doing his due diligence by tampering with the electrical system in the rental unit as he found there was an issue with the smoke detector and also his stove in the rental unit. The Tenant placed blame on the Landlord for not repairing these items.

The Tenant read a letter from his Doctor which indicates that the Tenant was admitted to Hospital on December 13, 2022 as a result of a mental health crises and was released on January 4, 2023. The Tenant stated that he is now being supported in the community which will prevent future incidents. The Tenant stated that he was under the impression he was permitted to renovate his rental unit and is willing to pay for repairs.

Analysis

Based on the documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

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...

- (a) *The tenant or a person permitted on the residential property by the tenant had 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 landlords 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.***

The causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the Tenant must be extreme and require immediate action.

In this case, I find that the Landlord has provided sufficient evidence to demonstrate that the Tenant's actions of tampering with the electrical system and removing a wall in the rental unit has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, and put the landlords property at significant risk. Given the severity of the damage and the

level of risk created by the Tenant's actions, I find that it would be unfair to the Landlord and the other occupants to wait until a One Month Notice to End Tenancy for Cause to take effect under Section 47 of the *Act*.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenant. In addition, having been successful, I find the Landlord is entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from the security deposit held.

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 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: January 12, 2023

Residential Tenancy Branch