



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PENTICTON AND DISTRICT SOCIETY FOR COMMUNITY
LIVING and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord December 30, 2022 (the “Application”). The Landlord applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the “Act”). The Landlord also sought reimbursement for the filing fee.

L.W. appeared at the hearing for the Landlord. The Tenant appeared at the hearing. The Tenant exited the hearing for a period at the start and therefore missed introductory matters. I explained the hearing process to L.W. I told L.W. they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). L.W. and the Tenant provided affirmed testimony.

L.W. provided the full name of the Landlord which is reflected in the style of cause.

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlord’s evidence and the Tenant confirmed receipt of these and raised no issue with service when asked.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered all evidence provided. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an order ending the tenancy early pursuant to section 56 of the *Act*?
2. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

A written tenancy agreement was submitted, and the parties agreed it is accurate. The tenancy started August 01, 2020.

L.W. testified about issues the building and staff have had with one of the Tenant's guests including the guest screaming death threats, smashing their phone against the wall, stealing keys to the building, smoking in the lounge, stealing a cable box from the lounge and propping the door open such that anybody can come and go from the building. L.W. testified that the behaviour of the Tenant's guest has led to calls to 9-1-1 and police. L.W. testified that them, other staff and other tenants in the building are scared due to the behaviour of the Tenant's guest. L.W. testified that the Tenant was given notice to rectify the situation and never did.

The Landlord submitted documentary evidence to support their position.

The Tenant testified that their guest is a family friend and has anger issues as well as mental health issues. The Tenant acknowledged their guest was using the lounge in the building and got into a dispute with another tenant. The Tenant acknowledged their guest's outbursts were in relation to other tenants in the building. The Tenant acknowledged they had been given a fair chance to rectify the situation. The Tenant took the position that their guest behaved in the ways stated because they were provoked by other tenants. The Tenant testified that they have not seen this guest for over a week and will not allow them into the building again.

Analysis

Section 56 of the *Act* allows an arbitrator to end a tenancy early when two conditions are met. First, the tenant, or a person allowed on the property by the tenant, must have done one of the following:

1. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. Put the landlord's property at significant risk;
4. Engaged in illegal activity that has (a) caused or is likely to cause damage to the landlord's property (b) 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) jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
5. Caused extraordinary damage to the residential property.

Second, it must be unreasonable or unfair to require the landlord to wait for a One Month Notice to End Tenancy for Cause issued pursuant to section 47 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules, the Landlord, as applicant, has the onus to prove the circumstances meet this two-part test. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

I accept that the Tenant's guest has gotten into disputes with other tenants and has had outbursts in which they are screaming death threats in the building in relation to other tenants because the Tenant acknowledged this. This is also supported by the Landlord's evidence. I find the Tenant's guest has significantly interfered with and unreasonably disturbed other occupants of the residential property. I accept the Tenant was given a chance to rectify the situation because the Tenant acknowledged this. I find the Tenant did not properly rectify the situation immediately because the Tenant

was issued a One Month Notice about their guest in November of 2022, and the Tenant acknowledged it has only been around a week since they have had their guest over.

I accept that it would be unreasonable and unfair to require the Landlord to wait for a One Month Notice to End Tenancy for Cause issued pursuant to section 47 of the *Act* to take effect because the Tenant has allowed a guest into the building multiple times and this guest has gotten into disputes with other tenants and yelled death threats in relation to other tenants. I find the Tenant's guest poses a safety risk to other tenants in the building. I am not satisfied the Tenant will keep their guest from entering the building in the future because the Tenant acknowledged the guest being around as recently as around a week ago and this issue has been ongoing since at least November of 2022.

I am satisfied the Landlord has met their onus to prove the tenancy should end pursuant to section 56 of the *Act*. I issue the Landlord an Order of Possession for the rental unit which will be effective two days after service on the Tenant.

Given the Landlord has been successful in the Application, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*.

Conclusion

The Landlord is issued an Order of Possession effective two days after service on the Tenant. This Order must be served on the Tenant and, if the Tenant does not comply with this Order, it may be filed and enforced in the Supreme Court as an order of that Court.

The Landlord is entitled to reimbursement for the \$100.00 filing fee and is issued a Monetary Order in this amount. This Order must be served on the Tenant. If the Tenant fails to comply with this Order, it may be filed in the Small Claims division of the Provincial Court and enforced as an order of that 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: January 16, 2023

Residential Tenancy Branch