



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding SALT SPRING AND SOUTHERN GULF ISLANDS
COMMUNITY SERVICES SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord January 26, 2023 (the “Application”). The Landlord applied for an order ending the tenancy early pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

J.F. appeared at the hearing for the Landlord. The Tenant did not appear at the hearing. I explained the hearing process to J.F. I told J.F. they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). J.F. provided affirmed testimony.

J.F. confirmed that the correct legal name of the Landlord is as shown on the written tenancy agreement and this 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.

The Landlord submitted registered mail receipts with Tracking Number 408 on them. J.F. testified that the hearing package and Landlord’s evidence were sent to the Tenant at the rental unit February 01, 2023, as shown on the registered mail receipts. I looked Tracking Number 408 up on the Canada Post website which shows the package was delivered and signed for February 03, 2023.

Based on the undisputed testimony of J.F., registered mail receipts and Canada Post website, I find the Tenant was served with the hearing package and Landlord’s evidence in accordance with sections 88(c) and 89(2)(b) of the *Act*. Based on the

Canada Post website, I find the Tenant received the hearing package and evidence February 03, 2023. I also find the Landlord complied with rule 10.3 of the Rules in relation to the timing of service.

Given I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. J.F. was 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*?

Background and Evidence

A written tenancy agreement was submitted. The tenancy started June 10, 2019.

J.F. testified as follows. On January 23, 2023, the Tenant went into the upper level of the building naked and tried to get into two other tenants' rooms. The Tenant then went into the bathroom. The two other tenants came out of their rooms, the Tenant came out of the bathroom and the Tenant attacked one of the other tenants. The Tenant then went downstairs and came back with a machete at which point the two other tenants locked themselves in their rooms and called the police. Police attended. The Tenant was then charged with assaulting a police officer and possession of a weapon and was taken to jail. The Tenant was released from jail but not allowed to return to the rental unit building or have contact with the two other tenants.

The Landlord submitted a court document showing the Tenant was charged with assaulting police with a weapon and possession of a weapon for a dangerous purpose due to an incident January 22, 2023. The document shows the Tenant has conditions not to go to the rental unit building and not to have contact with the two other tenants involved in the incident.

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 the above 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 was involved in the incident described by J.F. based on J.F.'s undisputed testimony and the court document. I accept the Tenant attacked another tenant of the building and approached two other tenants of the building with a machete after attacking one of the other tenants. I accept police attended and the Tenant was charged with assaulting police with a weapon and possession of a weapon for a dangerous purpose. I find the Tenant has significantly interfered with and unreasonably disturbed two other tenants in the building in relation to the January 22, 2023, incident.

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 January 22, 2023 incident with the two other tenants involved violence and a weapon. I find the incident serious and to be the very type of incident section 56 of the *Act* is meant to address.

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 effective two days after service on the Tenant.

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.

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: February 17, 2023

Residential Tenancy Branch