



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

A matter regarding LANTERN PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the Act") for an early end to this tenancy and an Order of Possession pursuant to section 56.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:51 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agents, KH and KK, attended the hearing and both were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed that the landlord's agents and I were the only ones who had called into this teleconference.

The parties clearly informed of the RTB Rules of Procedure Rule 6.11 which prohibits the recording the dispute resolution hearing by participants, and that the Residential Tenancy Branch's teleconference system automatically records audio for all dispute resolution hearings. The parties confirmed that they understood.

The landlord confirmed that both tenants were personally served with the hearing package and documents, including the Notice of Hearing, on February 1, 2023. The landlord provided a copy of the proof of service in their documentary materials, which is signed by KK who served the documents, as well as the witness JK. In accordance with sections 88 and 89 of the Act, I find the tenants duly served with the landlord's Application and evidence package. The tenants did not submit any written evidence for this hearing.

Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below

The landlord provided the following submissions. This month-to-month tenancy began on October 1, 1982. Monthly rent is currently set at \$979.00, payable on the first of the month. The landlord holds a security deposit of \$316.00 for this tenancy.

The landlord is seeking an early end of this tenancy as they feel the tenants pose a significant and urgent risk to the property and other tenants who reside there. The landlord submitted detailed, written evidence and provided testimony during the hearing to support why the landlord requires an Order of Possession on an expedited basis.

The landlord testified that both tenants are elderly, and although they have been residing in the building since 1982, the tenant SM's health has deteriorated to the extent that they can no longer look after the rental unit or herself. The building manager, KK, testified in the hearing that they reside in the same building, and have been inside the rental unit approximately fifteen times. KK testified that the situation was a helpless one where the tenant GC would leave SM alone each day for hours despite the fact that SM is severely visually impaired.

The landlord testified that the rental unit has been neglected to the point that the tenants have failed to maintain sanitary conditions that meet health and safety standards. The landlord testified that the unit has been infested with bedbugs on multiple occasions, which spread to neighbouring units. The landlord provided copies of the pest control invoices in their evidence.

The landlord testified that despite multiple warnings and conversations, the tenants have failed to address the situation. The landlord also described multiple floods in the rental unit caused by the tenants' negligent actions. The first flood took place in 2019, causing water to enter into the unit below. KK states that they had to shut off the water and plunge the toilet. KK notes that "old prawns came out of the toilet".

The second flooding incident took place on February 11, 2022. The tenant in another suite called the building manager to inform them that water was dripping from the ceiling. The building manager attended at the tenants' suite, and noticed water was overflowing from the tenants' toilet again, and into the kitchen. KK attempted to plunge and snake the toilet without success, and called a plumbing company to attend. The plumber found a head of lettuce stuck down the main pipe, and warned SM about flushing further items down the toilet. A copy of the plumbing invoice was submitted in evidence, along with another invoice from September 8, 2018 for an incident where the toilet was plugged by the tenants attempting to flush a whole radish down the toilet.

The tenants were served with a 1 Month Notice to End tenancy for Cause on January 4, 2023 for seriously jeopardizing the health or safety of another occupant or landlord, and for putting the landlord's property at significant risk. The tenants disputed the 1 Month Notice, and a hearing is set for May 8, 2023.

On January 22, 2023, another flood occurred in the tenants' rental unit. The building manager was informed by two tenants, one from the second floor, and one from the first floor, that water was coming through their ceilings. The building manager attended at the tenants' suite, and found the kitchen tap running while the tenants were asleep. KK observed that the sink was full of food scraps, plates, and utensils, which prevented water from draining from the overflowing sink. KK submits that the water damage was extensive from this incident.

The landlord's agents testified that they are extremely concerned about the significant and immediate risk to the landlord's property and rights of the other tenants if this tenancy was to continue based on the incidents that have taken place during this tenancy, and how helpless the tenant SM has become. The landlord expressed concern about how the tenants have failed to acknowledge or address any of the issues raised by the landlords, and how the situation is getting worse. The landlord emphasized the urgency of this application, but noted that out of consideration for the elderly tenants they would request that an Order of Possession be granted for March 10, 2023 to allow the tenants more time to vacate the rental unit.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an

Order of Possession on a date that is earlier than the tenancy would end if a notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenants have done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *engaged in illegal activity that 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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

Based on the evidence and sworn testimony before me, I find that sufficient evidence has been provided to warrant an end to this tenancy for several of the reasons outlined in section 56, as outlined above. I find that the tenants have seriously jeopardized the health or safety or a lawful right or interests of the other residents in the building, and put the landlord's property at significant risk. The landlord is seeking an Order of Possession as the landlord is concerned about the neglect and condition of the rental unit, and the severe and extensive damage due to the multiple floods caused by the tenants during this tenancy, with one of the three recent incidents taking place after the 1 Month Notice was served on the tenants.

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate that "it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47" for cause to take effect. On this point, I find that the reasons cited by the landlord for circumventing the

standard process for ending a tenancy for cause meet the test required to end this tenancy early.

Although the tenants were served with a 1 Month Notice, the tenants continue to behave in a manner that has caused extensive damage to not only the tenants' rental unit, but also to the units below.

The significant amount of damage and resulting loss due to the negligent actions of the tenants is quite worrisome. I note that the tenants have chosen to not appear at this hearing, nor has the tenants provided any contrasting accounts by way of written evidence.

The main reason for the urgent nature of this application is the immediate risk to the landlord's property, as well as to the health and safety of other residents who reside in this building. I find that the landlord has provided sufficient evidence to support this risk. Of particular concern is the fact that the tenants continue to engage in similar behaviours despite being provided with multiple warnings, and being served with a 1 Month Notice, which highlights the potential volatility that the landlord and other residents may face if this tenancy was to continue.

Under these circumstances, I find that it would be unreasonable and unfair for the landlord to have to wait until the hearing date on May 8, 2023. I find that the landlord has provided sufficient evidence to warrant ending this tenancy early, and accordingly I grant an Order of Possession to the landlords for March 10, 2023.

Conclusion

I grant the Landlord an Order of Possession effective March 10, 2023. The Tenants must be served with the Order of Possession. Should the tenant(s) and any occupant fail to comply with this Order, this Order may be filed 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: February 13, 2023

Residential Tenancy Branch