



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

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 the tenancy and an Order of Possession pursuant to Sections 56 and 62 of the Act.

The hearing was conducted via teleconference. The Landlord attended the hearing at the appointed date and time and provided affirmed testimony. The Tenant did not attend the hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference. The Landlord was given a full opportunity to be heard, to make submissions, and to call witnesses.

I advised the Landlord that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. The Landlord testified that she was not recording this dispute resolution hearing.

The Landlord testified that she served the Tenant with the Notice of Dispute Resolution Proceeding package and evidence on March 14, 2023 by Canada Post registered mail (the "NoDRP package"). The Landlord referred me to the Canada Post registered mail receipt with tracking number submitted into documentary evidence as proof of service. I noted the registered mail tracking number on the cover sheet of this decision. I find that the Tenant was deemed served with the NoDRP package five days after mailing them on March 19, 2023 in accordance with Sections 89(1)(c) and 90(a) of the Act.

Issue to be Decided

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

Background and Evidence

I have reviewed all written and oral evidence and submissions presented to me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Landlord confirmed that this tenancy began as a fixed term tenancy on February 1, 2021. The fixed term ended on July 31, 2021, then the tenancy continued on a month-to-month basis. Monthly rent is \$665.00 payable on the first day of each month. A security deposit of \$335.00 was collected at the start of the tenancy and is still held by the Landlord.

In the home were seven tenants. The Landlord lives in her own home. On March 6, 2023, the Landlord testified that she was informed that the Tenant had gone into another tenant's room, there were some terrible noises, then the Tenant was seen running out of the other tenant's room. The tenant who observed the Tenant running out of the room went to check on the other person and he saw him lying in bed with blood running down his face. He called 911.

The Landlord described that the police told her there was drug paraphernalia in the Tenant's room and all her other tenants had to evacuate the home. The police produced a search warrant to the Landlord and blockaded the Tenant's room.

As far as the Landlord knows, the Tenant has been incarcerated. The other person who had been assaulted was on life support, then later died. The Landlord's other tenants are traumatized and three are leaving.

The Tenant has not returned, and the Landlord is seeking an early end of tenancy and an Order of Possession.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus, in this application, is on the landlord to prove, on a balance of probabilities, the grounds on which this application for an early end to tenancy were based.

As this hearing was conducted pursuant to Rules of Procedure 7.3, in the Tenant's absence, all the Landlord's testimony is undisputed. Rules of Procedure 7.3 states:

Consequences of not attending the hearing: *If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.*

In this matter, Section 56 of the Act is relevant:

Application for order ending tenancy early

- 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;*
 - (iii) *put the landlord's 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.*
- (3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.*

The Landlord's undisputed testimony described a one-time, traumatic incident which resulted in the loss of life of one of her tenants. The police told the Landlord that there was drug paraphernalia in the Tenant's room, and all the other residents had to leave the building. Three other tenants are leaving due to being so frightened by the events on March 6, 2023, and the Tenant has not returned.

Based on the totality of the undisputed evidence of the Landlord, I find the Tenant has significantly interfered with or unreasonably disturbed other occupants and the Landlord of the residential property. I also find the Tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of the other occupants of the residential property. I am satisfied that the Landlord has met her burden of proving on a balance of probabilities that the Tenant's tenancy must end early. Pursuant to Section 56(2)(b), I find it would be unreasonable, and unfair to the other occupants and the Landlord of the residential property to have to wait for a notice to end the tenancy under Section 47 of the Act to take effect.

I find the Landlord has satisfied me that an order to end this tenancy early is warranted and she is entitled to an Order of Possession, which will be effective two (2) days after service on the Tenant.

For the benefit of the Landlord, the Landlord may wish to discuss with an Information Officer at the RTB any additional options available to her for any remaining outstanding claims. An Information Officer can be reached at:

5021 Kingsway

Burnaby, BC

Phone: 604-660-1020 (Lower Mainland)

250-387-1602 (Victoria)

1-800-665-8779

Website: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies>

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 Act.

Dated: March 31, 2023

Residential Tenancy Branch