



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an to end the tenancy early and obtain an order of possession pursuant to section 56 of the Act and to recover the cost of the filing fee.

The hearing was conducted via teleconference and was attended by the landlord and the landlord's witness.

The landlords testified the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by posting to the door on March 28, 2023, in accordance with Section 89.

Based on the testimony of the landlord I find that the tenant has been sufficiently served with the documents pursuant to the *Act*.

The landlord testified that the tenant is fully aware of the application as it was discussed with the tenant's criminal lawyer, and they were going to see if they could have someone move the tenant's belongings from the rental unit.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy early and obtain an order of possession?

Background and Evidence

The landlord testified that the tenant had their brother temporarily residing with them because he had just had his leg amputated and was in a wheelchair.

The landlord testified that in the early morning of March 27, 2023, the tenant shot their brother in the face, which his screaming for help could be heard on several floors. The landlord stated that the tenant's brother had to drag himself out of the rental unit. 911 was called and the police attended, and paramedics attended. The landlord stated that the tenant was arrested and charged with a criminal offence and were told by the police that the tenant would not be allowed back onto the property.

The landlord testified that the shooting impacted many of the occupants of the building. Filed in evidence are photographs of the police attending, the victim covered in blood from the gun shot wound, the crime scene and witness statements.

The landlord's witness AB testified that the witness statement that they sign is true. AB stated that the incident has left them unsettled and they have been seeking counselling to assist with the trauma.

Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (One Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or
 - 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 rental unit or residential property;

- b) And 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 to take effect.

I am satisfied, based on the testimony and documentary evidence provided by the landlord and the landlord's witness that the tenant shot their disabled brother in their rental unit causing a significant disturbance and even trauma to some of the occupants who witness the victim screaming and bleeding in the hallway.

This was in a residential building the shooting caused a significant and unreasonable disturbance, seriously jeopardize the health or safety of other occupants and put the landlord property at significant risk.

Further, the tenant was charged with a criminal offence leading me to believe this was also illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of the landlord or another occupant of the residential property.

Furthermore, I find it would be unreasonable and unfair to the landlord and other occupants of the residential property to wait for a notice to end tenancy under Section 47 of the Act to take effect as this was a significant incident of violence which a gun was involved.

I find the landlord is entitled to an order of possession, pursuant to **section 56** of the Act, effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file, the order with the Supreme Court of British Columbia and be enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

As the landlord was successful with their application, I authorize the landlord to keep the amount of \$100.00 from the tenant's security deposit in full satisfaction to recover the cost of the filing fee.

Conclusion

The landlord is granted an order of possession and may keep \$100.00 from the tenant's security deposit to recover the cost of the filing fee.

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: April 13, 2023

Residential Tenancy Branch