



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

ET

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied to end the tenancy early and for an Order of Possession.

The Agent for the Landlord stated that on May 05, 2023 the Dispute Resolution Package and evidence submitted to the Residential Tenancy Branch on May 03, 2023 was posted on the door of the rental unit. As this is an expedited hearing, posting these documents is a method of service authorized by the Director's Order of March 01, 2021, which reads in part:

Section 9(3) of the Residential Tenancy Act (RTA) and Manufactured Home Park Tenancy Act (MHPTA) permit the director of the Residential Tenancy Branch to establish rules of procedure for the conduct of dispute resolution proceedings. Under Rule 10 of the rules of procedure, the director may set an application for dispute resolution down for an expedited hearing meaning it will be heard on short notice to the respondent.

Section 71(2)(a) and (c) of the RTA and section 64(2)(a) and (c) of the MHPTA allow the director to order that documents must be served in a manner the director considers necessary, despite the methods of service provided for in sections 88 and 89 of the RTA and sections 81 and 82 of the MHPTA, and that a document not served in accordance with those sections is sufficiently given or served for purposes of the Act.

THE DIRECTOR ORDERS that:

Pursuant to sections 71(2)(a) and (c) of the RTA and sections 64(2)(a) and (c) of the MHPTA, and subject to any further order made pursuant to those sections:

1. A party to an application for dispute resolution set down under Rule 10 of the rules of procedure for a hearing date that is between six and 11 days after the date the application is made must serve their materials a. by leaving a copy with the person, b. if the person is a landlord, by leaving a copy with an agent of the landlord, or c. if the person is a tenant, by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant.

2. A party to an application for dispute resolution set down under Rule 10 of the rules of procedure for a hearing date that is between 12 and 16 days after the date the application is made must serve their materials a. by any method set out in paragraph 1 of this order, b. by attaching a copy to a door or other conspicuous place at the address at which the person resides, c. if the person is a landlord, by attaching a copy to a door or other conspicuous place at the address at which the person carries on business as a landlord, or d. by emailing a copy to an email address provided as an address for service by the person.

3. A party to an application for dispute resolution set down under Rule 10 of the rules of procedure for a hearing date that is 17 days or more after the date the application is made may serve their materials a. by any method set out in paragraphs 1 and 2 of this order, b. by sending a copy by registered mail to the address at which the person resides, or c. if the person is a landlord, by sending a copy by registered mail to the address at which the person carries on business as a landlord.

As these documents have been properly served to the Tenant, the evidence was accepted as evidence for these proceedings and the hearing proceed in the absence of the Tenant.

The Agent for the Landlord was given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The Agent for the Landlord affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The Agent for the Landlord was advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. The Agent for the Landlord affirmed they would not record any portion of these proceedings.

Preliminary Matter

The Agent for the Landlord stated that he was unable to add a unit number into the system when the Application for Dispute Resolution was filed. He applied to amend the Application for Dispute Resolution to show that the unit number is 604.

As the Tenant is presumably fully aware that the Landlord is attempting to end his tenancy in unit 604, I find it reasonable to amend the Application for Dispute Resolution to include this unit number.

Issue(s) to be Decided

Is the Landlord entitled to end this tenancy early and to an Order of Possession on the basis that the tenancy is ending early, pursuant to section 56(1) of the *Residential Tenancy Act (Act)*?

Background and Evidence

The Agent for the Landlord stated that on April 29, 2023 there was a fire inside the rental unit, at which time the fire department attended to extinguish the fire. When the unit was inspected after the fire, the Landlord learned the smoke detector had been removed from the unit.

The Agent for the Landlord stated that burned newspaper and burned clothing was found inside the unit, which caused the Landlord to conclude that the fire had been intentionally set. Photographs of these items were submitted by the Landlord.

The Agent for the Landlord stated that security cameras in the residential complex show that the Tenant left the rental unit approximately two minutes prior to the fire alarm activating.

The Agent for the Landlord stated that the Tenant told the Landlord that he did not intentionally set the fire and he does not know how the fire started.

Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and the Landlord may apply for an Order of Possession for the rental unit. Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by 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 another occupant of the residential property
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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.

On the basis of the testimony of the Agent for the Landlord and the photographs submitted in evidence, I find that a fire was intentionally set inside the unit. I find that the photographs of burned clothing and burned newspaper strongly support the conclusion that the fire was intentionally set.

On the basis of the testimony of the Agent for the Landlord and the photographs submitted in evidence, I find that the smoke detector in the unit had been removed by the Tenant or the Tenant's guest.

I find that intentionally setting a fire inside the rental unit and removing the smoke alarm seriously jeopardizes the health or safety or a lawful right or interest of the landlord or another occupant.

Given the impact setting a fire has on the safety and well being of other occupants of the residential complex, I find that it would be unreasonable in these circumstances to wait for a notice to end the tenancy under section 47 of the *Act* to take effect.

I therefore grant the application to end this tenancy early and I grant the Landlord an Order of Possession.

Conclusion

I grant the Landlord an Order of Possession that is effective two days after it is served upon the Tenant. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia 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: June 02, 2023

Residential Tenancy Branch