



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding ATIRA WOMEN'S RESOURCE
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

The Landlord filed an Application for Dispute Resolution on July 26, 2023 seeking an order to end the tenancy on the basis that the Tenant poses an immediate and severe risk to the property, other occupants, or the Landlord. The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on August 25, 2023. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The Landlord attended the hearing; the Tenant did not.

Preliminary Matter – notification of the hearing

The Landlord stated that they delivered notice of this dispute resolution, on the form sent to them by the Residential Tenancy Branch, by attaching a copy of the document to the door of the rental unit on July 27, 2023. This was the same day the Residential Tenancy Branch provided the Notice of Dispute Resolution Proceeding to the Landlord. In their evidence, the Landlord provided an image of the envelope containing the documentation, including their evidence, attached to the rental unit door.

The Landlord set out that they did not observe the Tenant directly at the rental unit property since their service of the Notice of Dispute Resolution Proceeding.

From what the Landlord presents here on notifying the Tenant of this hearing, I am satisfied they served the Tenant notice of this hearing in a method prescribed by the *Act*, particularly s. 89(2)(d). I find the Landlord included all the evidence they prepared for this hearing.

Given my finding that the Landlord effected service in the proper manner and in compliance with the *Act*, I proceed with the hearing. I conducted the hearing, in the absence of the Tenant, as allowed by Rule 7.3 of the *Residential Tenancy Branch Rules of Procedure*.

Issues to be Decided

Is the Landlord entitled to an order of possession that ends the tenancy for cause and without notice by s. 56 of the *Act*?

Background and Evidence

The Landlord confirmed there is a tenancy agreement in place and provided a copy of it for this hearing in their evidence. The Tenant moved into the rental unit property in June 2021. The Landlord had the Tenant move to a different unit in the rental unit property; this is currently the rental unit in which the Tenant resides.

The Landlord set out that the rental unit was subject to 'Do Not Occupy' orders issued by the fire department, for the reason of extreme clutter within the rental unit that proved to be an emergency hazard. The Tenant was subject to an order to reduce the contents within the rental unit by 75%. The Landlord attempted to establish a timeline for this to happen, and attempted to assist the Tenant; however, the Tenant did not comply with the 'Do Not Occupy' restrictions as required.

Additionally, the Landlord described the behaviour of the Tenant, describing the Tenant yelling at staff, including racial slurs and death threats. The Landlord recounted one incident where the Tenant lunged at the door and continued to bang on the door where the Landlord attempted to separate the Tenant from other staff and residents. The Tenant attempted to break into the rental unit that was subject to the 'Do Not Occupy' order.

The Landlord also recounted one incident where the Tenant barricaded themselves inside, and the police had to attend to remove the Tenant from that room. The police had to remove the Tenant from the Landlord's immediate personal space because of ongoing screaming.

Analysis

The *Act* s. 56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 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 tenancy were given under section 47 [*landlord' notice: cause*], and
 - (b) an order granting the landlord possession of the rental unit.

Two criteria are present in s. 56(2). First, the landlord must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to a landlord to wait for a set-period Notice to End Tenancy to take effect under a different section of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

- 56(2) . . .
- (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 of the residential property
 - (iii) put the landlord' property at significant risk;
 - . . .
 - (v) caused extraordinary damage to the residential property
 - . . .

I have considered the evidence of the Landlord concerning the state of the unit, and the Tenant's conduct.

I find there is sufficient evidence to show the Tenant is the source of legitimate concern of significant risk to the property. This is specified by s. 56(2)(a)(iii) above. The evidence presented by the Landlord here shows this risk. This also places the safety of the Landlord, as well as the Tenant, at risk with a high risk of damage to the rental unit property, and basic lack of health standards.

Further, I find as fact the Tenant's conduct and behaviour constitutes interference or disturbance to others. The Landlord specified a high threshold for others' conduct in this environment. The fact that the Landlord cites the Tenant's conduct as unacceptable indicates something quite extreme; therefore, I find it would be unfair for the Landlord to wait for a separate notice to end tenancy for cause to take effect.

In summary: first, from the evidence I am satisfied that the facts of the situation prove cause; secondly, I find it unfair for the Landlord to wait for a set-period Notice to End Tenancy to take effect. I find the present situation merits an expedited end to the tenancy. I so grant an Order of Possession in line with this rationale.

Conclusion

For the reasons above, I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. Should the Tenant 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 s. 9.1(1) of the *Act*.

Dated: August 25, 2023

Residential Tenancy Branch