



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 dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act.

The landlord's agents (agent) attended the hearing; however, the tenant did not attend.

The agent LG stated she served the tenant with their Application for Dispute Resolution, evidence, and Notice of Hearing (application package) on August 13, 2020, by attaching it to the tenant's door.

I accept the landlord's evidence that the tenant was served notice of this hearing in a manner complying with section 89 of the Act and the hearing proceeded in the tenant's absence.

The agents were provided the opportunity to present their/his affirmed testimony and make submissions to me.

Issue to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession for health or safety reasons under section 56 of the Act?

Background and Evidence

While I have turned my mind to all the documentary and digital evidence and the testimony of the agents, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

The agents testified that the tenant brutally assaulted a senior outside the front door of the residential property, leaving the elderly citizen with his face half caved in and one of his eyes hanging out of the socket. The senior was covered in blood.

The police came to the rental unit and the SWAT arrived, went inside, and arrested the tenant. The police taped the front door and took DNA samples from the blood on the tenant's door handle.

The agent testified that she has spoken to one of the witnesses to the assault, but that the witness is too scared to stay in their rental unit. That witness has gone into hiding and is now living in a shelter. The agent said other tenants/witnesses are too scared to come out of their rental units.

The agent said the tenant was a known gang member and drug dealer.

Analysis

Based on the testimony provided during the hearing, and on a balance of probabilities, I find I am satisfied that the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord and has committed an illegal act, assault, that significantly interfered with or unreasonably disturbed other occupants of the residential property.

Section 56 of the Act applies and states:

Application for order ending tenancy early

56(1) A landlord may make an application for dispute resolution to request an order

(a) 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) granting the landlord an order of possession in respect 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.

[Emphasis added]

I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a notice to end tenancy under section 47 of the Act. I find the actions of the tenant and the documentary evidence before me to support that the tenant assaulted a senior on the residential property, that other occupants witnessed the attack, and the evidence supports that the tenant committed a criminal act.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service on the tenant. I find the tenancy ended the date of this hearing, August 28, 2020 pursuant to sections 56 and 62(3) of the Act.

Conclusion

The landlord's application is successful.

The tenancy ended this date, August 28, 2020.

The landlord is granted an order of possession effective two (2) days after service on the tenant.

This order may be enforced through 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: August 28, 2020

Residential Tenancy Branch