



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ET

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The Landlord applied for an early end to the tenancy, pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The Landlord and the Tenant both attended the hearing and provided affirmed testimony. The Tenant confirmed receipt of the Landlord's Notice of Dispute Resolution Proceeding and evidence package. No service issues were raised.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

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

Background and Evidence

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine the issue identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

The Landlord explained that there have been numerous incidents with the Tenant where he has been violent and aggressive with staff and other Tenants in the building. Most recently, the Landlord stated that on January 7, 2023, the Tenant attacked the person living next door. More specifically, the Landlord stated that the Tenant attended his neighbour's door, and became aggressive because of some cooking smells. The Landlord stated that the Tenant became hostile, reached inside the neighbour's door into his unit, and punched him in the head. The Landlord further stated that when the neighbour went to get assistance, the Tenant attacked him again when he was walking in the hallway. The Landlord pointed to the video screenshots provided into evidence showing the relevant moments of the above noted incident.

The Landlord stated that there was also an incident, on December 29, 2022, where the Tenant punched a hole in the wall because he was unhappy with the Landlord. The Landlord also stated that the Tenant has been caught urinating in the hallway, and walking around naked at times. The Landlord stated that there are pending assault charges against the Tenant. The Landlord provided many pages of documentary evidence detailing the above noted incidents, including screenshots of the video footage.

The Tenant did not dispute that he punched a hole in the wall, but stated that the walls are paper thin. The Tenant also stated that he only punched his neighbour because his neighbour kicked him first. The Tenant's advocate stated that the Landlord has not met the onus placed on them to demonstrate that there is cause to end the tenancy early. The Tenant pointed out that the time stamp on the video stills are spaced several minutes apart, so there are important pieces missing.

Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings with respect to whether there are sufficient grounds to end the tenancy.

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; 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 note the Tenant asserts that he was kicked by his neighbour, and he only punched him in response/defense. The Tenant did not refute that he punched a hole in the wall or that he urinated and walked the halls naked. Regardless of whether or not the Tenant was kicked before he opted to attack (punch in the head) his neighbour, I note the Tenant does not refute that he did in fact punch his neighbour. I note this attack is supported by video footage. It is not necessary to determine whether the Tenant was kicked before he punched his neighbour in the head multiple times because I find it is not appropriate to resort to this level of violence in any event. I note the Tenant appears to have punched his neighbour numerous times over the span of several minutes. I find this behaviour is extremely hostile, aggressive, and dangerous, and put the other occupant at significant risk. Further, I note the Tenant has displayed other problematic and questionable behaviour (urinating in building, walking around nude, and punching holes in the wall).

In totality, I find the Tenant's behaviour is significant and severe enough as to warrant an early end to the tenancy, pursuant to section 56 of the Act. I find the Tenant's violence pose an immediate and severe risk to the Landlord. As such, I find the Landlord is entitled to an order of possession.

Conclusion

The Landlord has met the burden to prove the tenancy should end early.

The Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenants. 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.

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: March 20, 2023

Residential Tenancy Branch