



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

File No: 910108247

In the matter of the *Residential Tenancy Act*, SBC 2002, c. 78, as amended

Between

LAURELWOOD VENTURES INC, Landlord(s),

Applicant(s)

And

DREW MCPHERSON, Tenant(s),

Respondent(s)

Regarding a rental unit at: 35 WEST HASTINGS UNIT 235, VANCOUVER, BC

Date of Hearing: May 12, 2023, by conference call.

Date of Decision: May 15, 2023

Attending:

For the Landlord: Rod Ramsay, Property Manager

For the Tenant: Drew McPherson

Relevant file numbers: 310090222 & 310092774



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DECISION

Dispute Codes ET

Introduction

On April 18, 2023, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “Act”).

R.R. attended the hearing as an agent for the Landlord. The Tenant attended the hearing as well, and he advised of the correct spelling of his name. As such, the Style of Cause on the first page of this Decision has been amended accordingly.

At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

As a note, despite the parties being asked not to interrupt or respond unless prompted by myself, R.R. would continue to interject when it was not his turn, at which point he was cautioned about his behaviour. He acknowledged that he understood this warning by apologizing for his conduct. However, despite this acknowledgement, he continued to engage in the same pattern of behaviour. As a result, towards the end of the hearing, he was muted from participating until brought back into the hearing.

R.R. advised that the Notice of Hearing and evidence package was served to the Tenant by being attached to the door of the rental unit “possibly” on April 21, 2023. The Tenant confirmed that this package was received on April 23, 2023. As such, I am satisfied that the Tenant was duly served this package. Consequently, this evidence will be accepted and considered when rendering this Decision.

The Tenant advised that his evidence was served to the Landlord’s address on the tenancy agreement, by regular mail on April 26, 2023. He submitted proof of service of this documentary evidence. However, he acknowledged that he did not serve his digital evidence to the Landlord. R.R. confirmed that the address used was the business address of the Landlord, and he stated that he did not get this evidence “himself”. Given that there is proof that this documentary evidence was served to the address of the Landlord, I am satisfied that this evidence was deemed received by the Landlord five days after it was mailed. As such, this documentary evidence will be accepted and considered when rendering this Decision. However, as the digital evidence was not served to the Landlord, this evidence will be excluded and not considered when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; 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 an early end to this tenancy and an Order of Possession?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on February 1, 2023, that rent was currently established at \$650.00 per month, and that it was due on the first day of each month. A

security deposit of \$325.00 was also paid. A copy of a tenancy agreement was submitted as documentary evidence for consideration; however, this was not signed by either party.

R.R. advised that the Tenant had been threatening and harassing other residents and caretakers of the building, that he had been filming other residents without consent and posting the content online, and that he had been accusing R.R. of trying to murder him. He referenced documentary evidence submitted by employees of the Landlord, and of other residents of the building, to corroborate his position regarding the Tenant's behaviours. When he was asked to recount what the Tenant specifically said to these people to threaten them, he could not provide any specific commentary; however, he testified that the Tenant said he "will get" the caretakers, and that the Tenant said he would "do this or that". In spite of these vague and ambiguous "threats" being allegedly uttered by the Tenant, he stated that the police were not called.

As well, he cited the Tenant's own email, dated March 2, 2023, that was submitted as documentary evidence, to demonstrate the extent of the Tenant's mindset regarding the claims of murder, and other conspiracy theories and issues. In addition, with respect to the claims that R.R. was planning to murder the Tenant, R.R. submitted that the Tenant posted a notice on the front door of the building stating "Danger: Chemical and Biological Weapons in use by [R.R.]. UNSAFE PREMISES 604-319-4[XXX] 5[eyeball emoji] s [unknown emoji] Vladimir Putin". He referenced a copy of this notice submitted as documentary evidence.

It is R.R.'s position that amongst all of the difficult behaviours, disturbances, and threats to employees of the Landlord and other residents of the building, the Tenant's accusations of a plot to murder him by R.R. warrant an immediate end to this tenancy. He testified that there was a previous hearing on March 10, 2023, where the parties settled their dispute (the relevant file numbers are noted on the first page of this Decision). While neither party submitted a copy of this Decision, he noted that one of the conditions that the parties consented to was that the Tenant agreed to "comply with the rules, and communicate in a respectful manner with staff and the landlord." However, he confirmed that he served a One Month Notice to End Tenancy for Cause on or around April 3, 2023, due to the Tenant's ongoing behaviour contrary to this settlement agreement.

The Tenant advised that the evidence that R.R. is referencing to is from months ago, and that considering this now would be *res judicata*. However, the Tenant was advised

that if the parties settled their matters in the previous hearing, then a formal Decision was never rendered on whatever issues that were before the Arbitrator in that previous hearing. As such, the legal doctrine of *res judicata* would not apply.

He testified that he tries to get along with all of the residents in the building, that he hardly spends time in the building, that he has not interacted with anyone in the building in months, and that he has never threatened anyone. He made many submissions about instances where he believes other residents of the building, or agents for the Landlord, have breached his rights under the *Act*. However, he was advised that these matters are not relevant to the Landlord's claims, and he was reminded to focus his submissions on the Landlord's allegations regarding his conduct and behaviour.

The Tenant confirmed that he posted the notice in the building because it is his belief that an agent for the Landlord, or "someone with a key", had entered the rental unit and intentionally infested it with bedbugs. He then claimed that he posted the notice because it was his belief that the Landlord was purposefully using these harmful chemicals to treat this infestation.

He confirmed that he authored the email to the Landlord, dated March 2, 2023, and he testified that he is better able to resolve issues face-to-face. However, he acknowledged that this email was not an isolated incident, and when he addresses concerns in writing, it is problematic as it devolves into a random string of stream of consciousness.

He read directly from the previous Decision outlining all of the conditions of settlement, and he confirmed that he "agree[d] to comply with the rules, and communicate in a respectful manner with staff and the landlord." He also acknowledged that he was served a One Month Notice to End Tenancy for Cause on or around April 3, 2023.

Settlement discussions were attempted with the parties; however, they were unable to reach a mutually satisfactory agreement.

Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 56 of the *Act* establishes the grounds for the Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. In order to end a tenancy early and issue an Order of Possession under Section 56, I need to be satisfied that the Tenant, or a person permitted on the residential property by the Tenant, has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

I find it important to note that when two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, given the contradictory testimony and positions of the parties, I may also turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanour, as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

When reviewing the totality of the evidence before me, I note that the Tenant acknowledged that his email dated March 2, 2023, was not an isolated incident, and that when he addresses his concerns in writing it is problematic as his commentary is generally just a random string of stream of consciousness. In my view, this email depicts a wildly and fantastical account that is full of accusations against a number of parties including: the Landlord, R.R., and various government organizations and agencies, as well as involving the political situations in other countries. I do not find that

there is any logical connection in this rambling diatribe between all these random thoughts and how these plausibly relate to this tenancy.

Furthermore, I note that the Tenant read directly from the previous Decision, where he confirmed that he “agree[d] to comply with the rules, and communicate in a respectful manner with staff and the landlord.” However, I note the following excerpt from his written submissions in response to this Landlord’s Application:

I previously made the mistake of keeping quiet about major problems which were threatening my life, and I almost died as a result, so I will NOT make that mistake again and I want to make sure that everyone knows that he is a danger to myself and to the community in case anything happens to me, there will be some evidence about what may have happened and the police will know to start looking at him as a suspect.

As well, all parties acknowledged that the Tenant was served a One Month Notice to End Tenancy for Cause on or around April 3, 2023. In the Details of the Event(s): section of this notice, it stated that “After attending a hearing with the RTB where the Tenant was asked not to harass the property manager was agreed with a [sic] exit date for tenant move out. Well the Tenant has kept up a campaign of harassment and not honouring the RTB agreement. He is posting signs about the manager on doors and sending packages in the mail also and emails.”

While the Tenant claimed that he attempts to get along with other residents in the building, that he hardly spends time in the building, that he has not interacted with anyone in the building in months, and that he has never threatened anyone, I find that the content in his written submissions in response to this Application, more likely than not, contradicts the reliability of this testimony. I note that he specifically stated that “I will NOT make that mistake again and I want to make sure that everyone knows that he is a danger to myself and to the community in case anything happens to me, there will be some evidence about what may have happened and the police will know to start looking at him as a suspect.” Moreover, he also stated that, “I felt I was ethically obligated to do the best I can to mitigate any harms which may come to society as a result of [R.R.]’s crew endangering public safety. My basic moral integrity demanded that I not remain silent and that I act accordingly.”

In my view, these direct statements from the Tenant do not appear to be consistent with a person that would be abiding by a settlement agreement “to comply with the rules, and communicate in a respectful manner with staff and the landlord.” Rather, I find that the Tenant’s demeanour and commentary in his written submissions are, in fact, more consistent with the details of dispute in the One Month Notice to End Tenancy for Cause that the “Tenant has kept up a campaign of harassment.” Moreover, given that the Tenant confirmed that he posted the notice in the building warning of “chemical and biological weapons” use by R.R., I am satisfied that this is another piece of evidence that would lead to a reasonable conclusion that the Tenant is continuing to engage in behaviour that is contrary to the settlement agreement. In addition, the Tenant’s testimony that the Landlord, or someone else, is entering the rental unit and intentionally spreading bedbugs so that the Landlord can then treat those pests with toxic chemicals in an effort to harm him makes little rational sense.

When weighing the evidence on a balance of probabilities, I do not find any of the Tenant’s testimony and evidence to be reliable, logical, or plausible. Consequently, I prefer the Landlord’s evidence on the whole. As such, I am satisfied that the Tenant has, more likely than not, engaged in a pattern of behaviour that was intentional, inappropriate, hostile, and malicious, and would fall into the categories of: significantly interfering with or unreasonably disturbing another occupant or the Landlord, seriously jeopardizing the health or safety or a lawful right or interest of the Landlord, engaging 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, and engaging in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the Landlord. I do not find that these behaviours are in any way reasonable, appropriate, or acceptable.

The Landlord must also demonstrate that “it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 for cause” to take effect.

When assessing and weighing the totality of the evidence before me, I find that the Tenant has engaged in such a misguided and abhorrent manner that should the tenancy continue, it is uncertain how much more dangerous the situation could become. It is clear that despite the conditions agreed to in the settlement agreement, the Tenant has continued to engage intentionally in troublesome behaviours and actions that were vindictive and wholly inappropriate, and that these pose an unpredictable danger that would likely cause a genuine concern for the ongoing safety of the property and of any

persons that may attend the property.

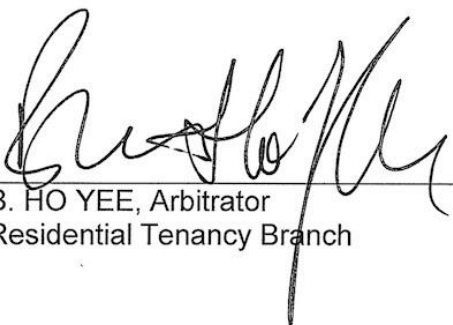
Under these circumstances described, I find that it would be unreasonable and unfair for the Landlord to wait for a One Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the Landlord has provided sufficient evidence to warrant ending this tenancy early. As such, I find that the Landlord is entitled to an Order of Possession.

Conclusion

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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: May 15, 2023



B. HO YEE, Arbitrator
Residential Tenancy Branch



Residential Tenancy Branch

RTB-136

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.gov.bc.ca/landlordtenant) has information about:

- How and when to enforce an order of possession:
Visit: www.gov.bc.ca/landlordtenant/orders
- How and when to enforce a monetary order:
Visit: www.gov.bc.ca/landlordtenant/orders
- How and when to have a decision or order corrected:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the correction process
- How and when to have a decision or order clarified:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the clarification process
- How and when to apply for the review of a decision:
Visit: www.gov.bc.ca/landlordtenant/review to learn about the review process
Please Note: Legislated deadlines apply
- How and when to issue a Notice of Additional Rent Increase - Eligible Capital Expenditures:
Visit: <https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/during-a-tenancy/rent-increases/additional-rent-increase>

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.gov.bc.ca/landlordtenant

Residential Tenancy Branch

#RTB-136 (2014/12)

