



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: ET

Introduction

This hearing dealt with the landlord's application for an early end to tenancy and an order of possession. The landlord and two witnesses participated in the hearing and gave affirmed testimony. Despite being served with the application for dispute resolution and notice of hearing by way of conspicuous posting on the door of the rental unit, the tenant did not appear.

Issue to be Decided

- Whether the landlord is entitled to an early end to tenancy and an order of possession

Background and Evidence

Pursuant to a written residential tenancy agreement, the fixed term of tenancy is from April 1, 2009 to March 31, 2010. Rent in the amount of \$1,400.00 is payable in advance on the first day of each month, and a security deposit of \$700.00 was collected in late March 2009.

After being notified by the building manager on May 21, 2009 of heat and odours apparently emanating from the rental unit, the landlord attempted to reach the tenant by telephone. When they were eventually able to speak over the telephone the tenant denied the landlord's verbal request for permission to enter the unit in the tenant's absence. Following this, after being contacted by the landlord, by way of a search warrant police entered the unit and discovered that a grow-op had been established. The grow-op apparatus was then dismantled by police and the tenant has not subsequently returned to the unit.

Analysis

Based on the undisputed testimony of the landlord and his witnesses, while the tenant did not participate in the hearing, I find that he was served with the application for dispute resolution and notice of hearing.

Section 56 of the Act addresses **Application for order ending tenancy early**. In particular, section 56(1)(a) & (b) of the Act states:

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.

Further, section 56(2) of the Act provides:

56(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 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.

Pursuant to all of the above information I find that the landlord is entitled to an early end to tenancy and an order of possession.

Conclusion

I hereby issue an order of possession in favour of the landlord effective not later than **two (2) days** after service upon the tenant. This order must be served on the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

DATE: May 29, 2009

Dispute Resolution Officer