



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET, FF

Introduction

This matter dealt with an application by the Landlord for an order ending the tenancy earlier than it would end if the Landlord was required to serve the Tenant with a Notice to End Tenancy for Cause and wait for the applicable notice period to take effect. The Landlord also applied to recover the filing fee for this proceeding.

The Landlord served the Tenant by registered mail on July 7, 2009 with a copy of the Application and Notice of Hearing. According to the Canada Post online tracking system, a notification card was left for the Tenant on July 8, 2009, however, she did not pick up the hearing package. The Landlord said he also posted a copy of the hearing package on the rental unit door on July 7, 2009.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy early?

Background and Evidence

This tenancy started on November 1, 2004. The Landlord said that on June 30, 2009, he received notification from the City of Kelowna that the rental unit had been used as a marijuana grow operation and that it could not be occupied again until the Landlord took steps in compliance with the Nuisance Controlled Substance By-Law. The Landlord said he inspected the rental unit on June 30, 2009 and discovered a substantial amount of damage including mould growth, wall and floor damage where plastic had been nailed and holes cut for venting. The Landlord also said the electrical box had been rewired.

The Notice to the Landlord from the City of Kelowna also states that the Landlord must complete any restorative work and have certification within 30 days that the rental unit is free from toxic mould and fungus.

Analysis

Section 56 of the Act says that a Landlord may apply to end a tenancy earlier than it would end if a Notice to End tenancy for Cause under s. 47 of the Act had to be given. In order to succeed on such an application, the Landlord must show that one or more of the grounds set out in subsection 56(2) of the Act exists and that it would be



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unreasonable or unfair to have to wait for a Notice to End Tenancy under s. 47 of the Act to take effect. Consequently, the Landlord must show that the conduct complained of is so serious or urgent that it warrants eviction on an expedited basis.

I find that the Tenant's marijuana grow operation in the rental unit has put the Landlord's property at significant risk. Given that the Landlord must take immediate steps to comply with the City's By-Law, I find that it would be unreasonable to make the Landlord serve the Tenant with a Notice to End Tenancy for Cause and wait for the notice period to take effect. Consequently, I find pursuant to s. 56 of the Act that the Landlord is entitled to an Order of Possession to take effect immediately.

I also find that the Landlord is entitled to recover the \$50.00 filing fee for this proceeding and order pursuant to s. 72 of the Act that he may deduct that amount from the Tenant's security deposit.

Conclusion

An Order of Possession to take effect immediately has been issued to the Landlord and a copy of it must be served on the Tenant. The Order of Possession may be enforced in 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: July 15, 2009.

Dispute Resolution Officer