

DECISION

Dispute Codes:

ET; FF

Introduction

This is the Landlord's application for an early end to tenancy and Order of Possession; and to recover the cost of the filing fee from the Tenant.

I reviewed the evidence provided by the Landlord prior to the Hearing. The Landlord gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Is the Landlord entitled to an Order of Possession?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenant?

Background and Evidence

The Landlord gave the following testimony:

On August 26, 2009, the Landlord's agent served the Tenant with the Notice of Hearing documents, by posting the documents to the Tenant's door.

On August 16, 2009, the Police initiated a car chase with the Tenant. The Tenant ran into the suite, and refused to allow the Police entry. The Police kicked in the main door leading to two suites, one of which was the Tenant's. The Tenant was arrested and taken away. The Tenant remains in jail.

The Tenant's girlfriend remained in the rental unit. The Tenant's girlfriend is not a tenant under the tenancy agreement. On August 18, 2009, there was a second incident where the Police were called. A friend of the Tenant's girlfriend kicked in the door leading to the Tenant's suite. The Police advised the Landlord that there were complaints about the Tenant and the Tenant's girlfriend. The Landlord asked the Tenant's girlfriend to leave, but she responded that the rent had been paid and refused to leave the rental unit.

On August 29, 2009, the Tenant's girlfriend removed some articles from the rental unit.

On August 31, 2009, the Tenant's girlfriend removed more articles from the rental unit.

The rental unit has sustained considerable damage due to the illegal actions of the Tenant and the Tenant's girlfriend, including:

- Two broken entry doors, which needed replacement;
- A damaged door jam;
- A broken bedroom door;
- Smashed tiles and a wall in the bathroom;
- A 3 x 2 foot piece of drywall is missing from the bedroom, and another wall is damaged in the bedroom;
- The blinds in the bedroom have been cut in half;
- An expensive chandelier in the dining room has been removed;
- One of the drawers in the kitchen has been removed;
- The laminate floors are water damaged; and
- The refrigerator was unplugged, causing food to spoil. The Landlord may have to replace the refrigerator.

Analysis

I find that the Tenant was served with the Notice of Hearing documents in accordance with Section 89(2)(d) of the Act. Section 90 of the Act deems service in this manner to be effected 3 days after posting the document. Despite being served with the Notice of Hearing Documents, the Tenant did not sign into the conference and the Hearing proceeded in his absence.

Based on the affirmed evidence of the Landlord, I find that the Tenant, or a person permitted on the residential property by the Tenant, has engaged in illegal activity that has caused extraordinary damage to the Landlord's property. The Landlord is entitled to an Order of Possession and I make that Order.

The Landlord has been successful in his application and is entitled to recover the cost of the \$50.00 filing fee from the Tenant. Pursuant to Section 72(2)(b) of the Act, the Landlord may deduct \$50.00 from the security deposit paid by the Tenant.

Conclusion

I hereby grant the Landlord an Order of Possession effective two days from service on the Tenant. This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlord may deduct the amount of \$50.00 from the security deposit.

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: September 3, 2009