

Dispute Codes: ET, FF

Introduction

This is the Landlords' application for an early Order of Possession and to recover the cost of the filing fee from the Tenants.

I reviewed the evidence provided prior to the Hearing. The Landlords and their agent gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Are the Landlords entitled to an Order of Possession pursuant to Section 56(1) of the Act?
- Are the Landlords entitled to recover the cost of the filing fee from the Tenants?

Background and Evidence

The Landlords testified that they served the Notice of Hearing documents on September 24, 2009, by posting the documents on the Tenants' door at the rental unit. A witness was present when the Landlords posted the documents.

The Landlords stated that the rental unit is one of two rental units in the basement of a house. The Landlords reside on the main floor of the house.

The Landlords testified that the Tenants have been threatening the Landlords and the other tenant in the rental unit. The Landlords testified that the Tenants have weapons in the rental unit and the Landlords do not feel safe in their own home.

The Landlords testified that the Tenants were arrested on September 30, 2009, for weapons violations. The Landlords are not certain whether or not the Tenants remain in custody and request an Order of Possession.

Analysis

I am satisfied that the Tenants were duly served with the Notice of Hearing documents, in accordance with the provisions of Section 89(2)(d) of the Act. Service in this manner is deemed to be effected three days after posting the documents. Therefore, I find that

the Tenants were served on September 27, 2009. Despite being served with the Notice of Hearing documents, the Tenants did not sign into the telephone conference and this Hearing proceeded in their absence.

Based on the testimony of the Landlords, I am satisfied that the Tenants have engaged in illegal activities that have adversely affected or are likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property. Therefore, I find that the Landlords are entitled to an Order of Possession and I make that Order.

The Landlords have been successful in their application and are entitled to recover the cost of the filing fee from the Tenants. Pursuant to Section 72(2)(b) of the Act, the Landlord may deduct the amount of \$50.00 from the security deposit paid by the Tenants.

Conclusion

I hereby grant the Landlords an Order of Possession effective **2 days after service upon the Tenants**. This Order must be served on the Tenants and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The Landlords are entitled to recover the cost of filing their application and may deduct the amount of \$50.00 from the security deposit paid by the Tenants.

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: October 8, 2009.
