



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

ET, FF

Introduction

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

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

Issues to be Decided

- Is the Landlord entitled to an Order of Possession pursuant to the provisions of Section 56(1) of the Act?
- Is the Landlord entitled to recover the cost of the filing fee from the Tenant?

Background and Evidence

This Landlord's agent testified that she served the Tenant with the Notice of Hearing documents on January 7, 2010, by handing the documents to the Tenant at the rental unit.

The Landlord has applied for an Early End to Tenancy because the Tenant is purposefully damaging the rental unit and harassing other tenants in the rental unit. The Landlord's agent testified that due to the concern that the Tenant may be retaliating against the Landlord as a result of a previous Application for Dispute Resolution, the Landlord has inspected the Tenant's rental unit, as follows:

Date	Result of inspection
December 14/09	Kitchen sink, bathroom sink and bath tub drains clogged with noodles, glass, a butter knife, hair and paper. Garbage strewn throughout rental unit. Photographs taken and submitted in evidence.
December 29/09	Patio door wide open. Garbage throughout rental unit, Drains clogged again. Photographs taken and submitted in evidence.
December 31/09	Tenant absent. Hot water in shower turned on, drain plugged in shower. Tin covering drain in kitchen sink. Water damage to countertop and cupboards in kitchen. Photographs taken and submitted in evidence.

The Landlord's agent testified that the Tenant was successful in flooding his rental unit prior to December 14, 2009, and the Landlord is concerned that the Tenant will eventually be successful in his attempts to cause a flood again.

The Landlord provided photographs of the Tenant's bathroom in evidence. These photographs were taken immediately after the shower was shut off.

The Landlord's agent testified that the Tenant is also throwing debris off his balcony, including his own feces, and the floor of the rental unit is one foot deep in wet clothes, cushions and garbage. The Landlord's agent testified that the Tenant has admitted to bringing other people's garbage into his home and strewing it about the apartment.

The Landlord's agent testified that the rental unit is furnished and that the furniture will have to be replaced due to mould.

The Landlord provided written evidence from six other tenants in the rental property, attesting to the Tenant's strange and aggressive behaviour towards them, including:

- Throwing feces and garbage off his balcony;
- Threatening to fight with the two of the other tenants;
- Stealing other tenant's extension cords;
- Knocking on other tenants' doors at 4:15 a.m. and 12:30 a.m. at night;
- Breaking planters and chairs in the common garden area; and
- Throwing a tennis ball at another tenant.

Analysis

I am satisfied that the Landlord's agent served the Tenant with the Notice of Hearing documents. Despite being served with the documents, the Tenant did not sign into the conference and the hearing proceeded in his absence.

Section 56 of the *Act* states:

Application for order ending tenancy early

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.

(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 a 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;



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(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.

I find that the Landlord has provided sufficient evidence, pursuant to section 56 of The Act, to show that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord of the residential property; and has put the Landlord's property at significant risk.

Therefore I find it would be unreasonable or unfair to the landlord or other occupants of the residential property to wait for a Notice to End Tenancy under section 47 to take effect.

The Landlord has been successful in its application and is entitled to recover the cost of the filing fee from the Tenant.

Conclusion

I grant the Landlord a Monetary Order against the Tenant in the amount of \$50.00. This Order must be served on the Tenant and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an Order of that Court.

I grant the Landlord an Order of Possession against the Tenant effective two days after service of the Order upon 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.



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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: January 14, 2010.

Corrected January 14, 2010
