

Decision

Dispute Codes: ET / OP, FF

Introduction

This hearing dealt with an application by the landlords for an early end to tenancy and recovery of the filing fee. The landlord participated in the hearing and gave affirmed testimony. Despite service of the application for dispute resolution and notice of hearing by way of registered mail and in person, the tenant did not appear.

Issues to be decided

- Whether the landlords are entitled to either or both of the above under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement, the fixed term of tenancy is from January 1 to March 31, 2010. It is understood there was an earlier agreement in place between the parties for a three month fixed term of tenancy between October 1 and December 31, 2009. Rent in the amount of \$900.00 is payable in advance on the first day of each month. A security deposit of \$450.00 was collected on or about October 1, 2009.

As a result of various difficulties in the tenancy the landlords seek an early end to tenancy and an order of possession. Problems include complaints from other residents in the complex about yelling, use of course language, aggressive conduct towards other residents ultimately, the tenant's arrest. The tenant has not occupied the unit since early February 2010, and currently resides in a safe house. A significant amount of the tenant's personal / household possessions remain in the unit.

The landlords have been in contact with the tenant since her departure from the unit, and the parties have verbally agreed to end the tenancy before the end of the fixed term.

The landlords seek to change the locks on the unit as soon as possible in order to prevent unauthorized access to the complex and to the unit by parties who may have been provided with key(s) by the tenant.

The landlords also seek to have the tenant's possessions removed from the unit as soon as possible in order to prepare the unit for new renters.

Analysis

Section 56 of the Act addresses **Application for order ending tenancy early**, and provides in part as follows:

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 a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;

Based on the documentary evidence and undisputed testimony of the landlord, I find that the tenant has significantly interfered with or unreasonably disturbed another occupant of the residential property, has seriously jeopardized the health or safety or a lawful right or interest of another occupant, and put the landlords' property at significant risk. Accordingly, I find that the landlords are entitled to an order of possession.

As the landlords have succeeded in this application, I find that the landlords may withhold \$50.00 from the security deposit in order to recover the filing fee.

The attention of the parties is drawn to the following excerpts from the Act and Regulation:

Part 5 of the Regulation (sections 24, 25, 26, 27, 28, 29 & 30): **Abandonment of Personal Property;**

Section 31 of the Act: **Prohibitions on changes to locks and other access;**

Section 38 of the Act: **Return of security deposit and pet damage deposit.**

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Conclusion

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlords 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.

I hereby order that the landlords may recover the filing fee by way of withholding **\$50.00** from the security deposit.

DATE: February 22, 2010

Dispute Resolution Officer