

DECISION

Dispute Codes ET, FF

Introduction

This hearing was scheduled in response to the landlords' application for Dispute Resolution, in which the landlord has applied for an Order of Possession on an Early End to Tenancy and to recover the filing fee for the cost of the application from the tenant.

The landlord states that the application and Notice of hearing was posted to the door of the rental unit and to the door of the trailer in which the tenants now reside on the property on May 20, 2010. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*.

The landlord agent and one of the landlords appeared, gave testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered

Issues(s) to be Decided

Is the landlord entitled to end the tenancy early and gain an Order of Possession on the basis of the application to end the tenancy early and to recover the filing fee from the tenants for the cost of this application pursuant to section 56 and 72 (1) of the *Act*.

Background and Evidence

This tenancy started on January 01, 2010. This was a month to month tenancy. The rent for this unit is \$1,500.00 per month and is due on the first of each month. The tenants paid a security deposit of \$750.00 on January 01, 2010.

The landlords' agent states that the electricity company noticed an increase in electricity in the area and carried out an investigation. It was found that the tenants have by-passed the hydro and cut through a wall to connect the hydro to a high power line. The city was informed that the tenants were stealing Hydro and an agent of the landlords' visited the rental unit with a bylaw enforcement officer who found mould and fungus in the unit and evidence that a grow-up had been operating in the rental unit, although at the time of the inspection all the plants had been removed. The Hydro has now been discounted and the City has posted an Order that the premises cannot be occupied.

The landlords agent states that the tenants will not confirm or deny that they operated a grow-up at the rental unit. The tenants are now living on the property in their trailer and all their belongings remain in the rental unit.

The landlord has provided documentary evidence from the city showing an electrical by-pass was located in the unit and that mould is evident in the attic and basement areas. A report from the city public safety inspection team states that the residence was used as a grow-up and a by-pass was located in the bedroom wall which had been covered up but not remediated. The landlord has also provided four by-law enforcement notices from the city concerning the fines incurred due to the bypass to the meter, the growth of mould and fungus and two notices concerning prohibited use of the property.

The landlords seek an Order for the Early End to the Tenancy due to the tenants actions in operating an illegal grow up, stealing electricity and causing damage to the rental unit.

Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would end if Notice to End Tenancy were given under section 47 of the *Act* and grant an Order of

Possession for the rental unit if the tenants or persons permitted on the residential property by the tenants have 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;
- (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 it is likely that the tenants have put the landlords property at significant risk by operating a grow up in the property. I also find it likely that the tenants have engaged in an illegal activity that has caused or is likely to cause damage to the landlord's property and they have jeopardized or are likely to jeopardize a lawful right or interest of the landlord because the city has now issued fines to the landlord and has issued a no occupancy order to the rental unit. I find although the tenants are no longer in the rental unit its self they continue to remain on the property and their belongings remain inside the rental unit.

Due to the above I am satisfied, that it would be unreasonable and unfair for the landlord to wait for a One Month Notice to End Tenancy under section 47 of the *Act* to take effect and allow the landlords application for an early end to the tenancy.

Conclusion

The landlords' application for an Order to end the tenancy early is granted. An Order of Possession to take effect at **two days after service** has been issued to the landlord pursuant to section 56 of the *Act*. A copy of this Order must be served on the tenants. The Order of possession is enforceable through the Supreme Court of British Columbia.

I Order the tenants to pay the landlords costs of filing this application of **\$50.00** and a Monetary Order has been issued to the landlord for this amount pursuant to s.72(1) of the *Act*.

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: June 14, 2010.

Dispute Resolution Officer