

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord and the tenants.

The landlord provided the contact information to call in the Bylaw Enforcement Officer to the hearing. I attempted to contact the Officer, but she was neither in her office nor reachable by phone.

Issue(s) to be Decided

The issue to be decided is whether the landlord is entitled to an order of possession without issuing a Notice to End Tenancy, pursuant to Section 56 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agreed the tenancy began in April 2009 as a month to month tenancy for a monthly rent of \$795.00 due on the 1st of the month and a security deposit of \$397.50 was paid.

The landlord provided into evidence a copy of a letter from the local city Bylaw Enforcement Officer dated January 11, 2011 advising that a complaint was received regarding "the unsightly condition" of the residential property; ordering the property to be cleaned up with 10 days; and noting that failure to comply will result in the city cleaning it up and charging the landlord with all the expenses associated with the clean up.

The landlord testified that she advised the tenants that they must complete the clean up and that despite some cleaning being completed the work is not yet sufficient, according to her conversations with the Bylaw Enforcement Officer.

The tenants testified that the Bylaw Enforcement Officer informed them that based on the clean up to date and with the remaining items in the carport blocked from view with tarps the cleanup is effectively complete.

The landlord received a follow up letter on February 3, 2011 stating the work was not yet complete and must be completed within 3 days of receipt of this letter or she may face additional fines. The landlord states she is facing a \$500.00 fine which may be levied every 3 days that the cleanup is not completed.

The landlord also provided into evidence 3 – 10 Day Notices to End Tenancy for Unpaid Rent and noted that the tenants are consistently late with rent payments. The tenants testified that they always try to pay the landlord rent early but she will never accept it and then when she does come to get the rent they don't have it so they have to get it and then pay her.

Analysis

Section 56 of the *Act* allows a landlord to apply to end a tenancy early and without notice, if there is sufficient cause and 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.

The potential causes outlined in Section 56 include the tenant or a person permitted on the property by the tenant has:

- Significantly interfered with or unreasonably disturbed another occupant or the landlord;
- Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- Put the landlord's property at significant risk;
- Engaged in illegal activity that:
 - Has caused or is likely to cause damage to the landlord's property;
 - Has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant; or
 - Has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
- Caused extraordinary damage to the residential property.

I find the landlord has failed to establish a cause under Section 56 sufficient to end the tenancy.

Conclusion

For the reason noted above, I dismiss the landlord's Application in its entirety.

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: February 25, 2011.

Residential Tenancy Branch

Now that you have your decision...

You might want more information about what to do next.

If you do, visit the RTB website at www.rto.gov.bc.ca for information about:

- How and when to enforce an order of possession:
Fact Sheet RTB-103: Landlord: Enforcing an Order of Possession
 - How and when to enforce a monetary order:
Fact Sheet RTB-108: Enforcing a Monetary Order
 - How and when to have a decision or order clarified or corrected:
Fact Sheet RTB-111: Clarification or Correction of Orders and Decisions
- How and when to apply for the review of a decision:
Fact Sheet RTB-100: Review of a Residential Tenancy Branch Decision **(Please Note: Legislated deadlines apply)**

If you would like to personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602
- Elsewhere in BC: 1-800-665-8779

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.rto.gov.bc.ca