



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET and FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has applied to end the tenancy early, for an Order of Possession, and to recover the cost of filing this Application for Dispute Resolution.

The Landlord stated that copies of the Application for Dispute Resolution and Notice of Hearing were posted on the door of the rental unit on June 15, 2011. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to end this tenancy early, to an Order of Possession on the basis that the tenancy is ending early, and to recover the cost of filing this Application for Dispute Resolution, pursuant to sections 56(1) and 72(1) of the *Act*.

Background and Evidence

The Landlord stated that he wishes to end this tenancy early as the Tenant has been growing marijuana in the rental unit, which has caused significant damage to the rental unit. He stated that maintenance personnel discovered the illegal activity when they were investigating the source of a water leak, which was found to be coming from the grow operation in this rental unit. He stated that the RCMP executed a search warrant on the premises on June 09, 2011, at which time they located several marijuana plants.

The Landlord submitted photographs of the search warrant for the premises and photographs of the rental unit that were taken after the rental unit had been searched by the police. The photographs show numerous pots, with the plants removed; holes that had been cut into the walls to accommodate venting, and that the electrical wiring had been tampered with, presumably to accommodate the grow operation.

No evidence was presented to show that the Tenant had the lawful right to cultivate marijuana.

Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and he may apply for an Order of Possession for the rental unit. Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that 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
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

After considering all of the evidence presented by the Landlord and in the absence of evidence to the contrary, I am satisfied that the Tenant or a person permitted on the property by the Tenant has been cultivating marijuana without lawful authority and that the Tenant's actions caused damage to the rental unit. I find that the damages included cutting holes in the walls; water damage related to watering the plants; and tampering with wiring, which has potentially serious consequences. I therefore find that the Landlord has grounds to end this tenancy pursuant to section 56(2)(a)(iv) of the *Act*.

Given the nature of the illegal act; the resulting damage to the rental unit; and the potential for additional damage to the rental unit, I find that it would be unreasonable to wait for a notice to end the tenancy under section 47 to take effect.

Conclusion

Based on these findings I grant the Landlord an Order of Possession that is effective immediately. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

I find that the Landlord has established a monetary claim, in the amount of \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. As requested by the Landlord at the hearing, I authorize the Landlord to retain this amount from the security deposit paid by the Tenant.

Dated: June 27, 2011.

Residential Tenancy Branch