



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This conference call hearing was convened in response to the landlord's application for an Order of Possession and to end a tenancy early; and to recover the filing fee associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession?

Is the landlord entitled to recover the filing fee?

Background and Evidence

The rental unit consists of a half duplex with basement. The month to month tenancy started on September 20th, 2008 and the rent is \$900.00 per month.

The landlord testified that during an inspection of the rental unit on May 12th, 2011, he discovered that the tenants had built an additional room in the basement. He stated that he did not consent to this initiative, that the tenants had not obtained the required city permits and that his home insurance was compromised. He stated that the tenants denied him subsequent access, that they changed the locks and will not pay rent.

Tenant T. Mellen did not dispute that he built the room without the landlord's consent; he stated that he hired a contractor, but that he did not know that he required any permits. He said that on May 17th, 2011 the room was dismantled and that the basement was back in its original condition. Concerning the locks, he stated that he misinformed the landlord and that the locks were never changed, contrary to what he

had told the landlord. He said that he built the room so he could use it during hot summer months.

Analysis

Concerning an application for an order to end a tenancy early, Section 56(2) of the Act states:

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 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;*
 - (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.*

Under the Act I find that the tenants' undertaking of this scale without the landlord's consent and without giving diligence to other jurisdictional requirements did put the landlord's property at risk and jeopardized the landlord's right or interest in the property. Although the tenants addressed the problem and restored the unit to its original condition, I find that the landlord had grounds to end the tenancy to protect his interest against future liability. Therefore the landlord is entitled to an order of possession.

Conclusion

I grant the landlord an Order of Possession effective two days from the date the order is served upon the tenant. This order must be served on the tenants.

If necessary, This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

Since he was successful, the landlord is entitled to recover the filing fee and pursuant to Section 67 of the Act, I grant the landlord a monetary order for \$50.00.

This Order may be registered in the Small Claims Court and enforced as an order of that Court.

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, 2011.

Residential Tenancy Branch