



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC and FF

Introduction

This hearing was convened on the landlord's application of February 29, 2012 for an Order of Possession pursuant to a Notice to End Tenancy for cause served in person on January 31, 2012. Causes cited included unreasonable disturbance, jeopardy of safety, putting the property at significant risk and illegal activity that has or is likely to cause damage, adversely affect quiet enjoyment and safety, and jeopardy of lawful rights of other tenants or the landlord. The landlord also sought to recover the filing fee for this proceeding from the tenants.

Despite having been served with the Notice of Hearing sent by registered mail on March 1, 2012, the tenants did not call in to the number provided to enable their participation in the telephone conference call hearing. Therefore, it proceeded in their absence.

Issue(s) to be Decided

This matter requires a decision on whether the landlord is entitled to an Order of Possession in support of the Notice to End Tenancy and to recover the filing fee for this proceeding from the tenants.

Background and Evidence

This tenancy began on September 1, 2011 under a one-year fixed term agreement, although the tenants were given early possession on August 5, 2011. Rent is \$1,250 per month and the landlord holds a security deposit of \$625.

During the hearing, the landlord gave evidence that the Notice to End Tenancy of January 31, 2012 had been served after warning letter dated January 27, 2012 and a series of events including:

- Five or six police visits to the rental unit to quell disturbances including fights;
- One ambulance call to attend to an injured party;
- Damage by the tenants or guests to the balcony door and to a door in the common area of the building;
- Questioning and intimidation, including physical contact, of other tenants regarding whether they had made complaints;
- Admission to the rental building of undesirable persons;
- At least one other tenant moving because of the conduct of the subject tenants;
- The need to hire a security person for the week preceding the hearing and until the tenants vacate, among others.

Analysis

Section 47(4) and (5) of the *Act* provides that tenants may make an application to dispute a Notice to End Tenancy for cause within 10 days of receipt of the notice; otherwise, the tenants are conclusively presumed to have accepted that the tenancy ended on the effective date of the notice and must vacate the rental unit by that date.

I find that the tenants have not made application to contest the Notice to End Tenancy and they are, therefore, conclusively presumed to have accepted that the tenancy ended on February 29, 2012 and are now over holding.

Therefore, I find that the landlord is entitled to an Order of Possession to take effect two days from service of it on the tenants.

As the application has succeeded on its merits, I find that the landlord is entitled to recover the filing fee for this proceeding from the tenants and I authorize the landlord to retain \$50 from the tenants' security deposit for that purpose.

In addition, the tenants are cautioned that, under section 95 of the *Act*,

- (2) A person who coerces, threatens, intimidates or harasses a tenant or landlord
- (a) in order to deter the tenant or landlord from making an application under this Act, or
 - (b) in retaliation for seeking or obtaining a remedy under this Act
- commits an offence and is liable on conviction to a fine of not more than \$5 000.

Conclusion

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenants.

The landlord is authorized to retain \$50 of the tenants' security deposit in recovery of the filing fee for this proceeding.

The landlord remains at liberty to make application for any further losses or damage as may be ascertained at the conclusion of the tenancy.

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: March 07, 2012.

Residential Tenancy Branch