



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing was convened by way of conference call in response to the Landlord's Application for Dispute Resolution requesting an Order of Possession to end the tenancy early and to recover the filing fee for the cost of the application from the tenant.

The landlord served the tenant with a copy of the application, evidence and Notice of Hearing documents to the tenant by registered mail. The landlord provided the Canada Post tracking number as evidence for this method of service. In addition, the landlord also posted a copy of the application and Notice of Hearing documents to the tenant's door. Based on the evidence of the landlord, and in the absence of any evidence from the tenant to contradict this, I am satisfied that the tenant has been served with the hearing documents and evidence as required by the *Residential Tenancy Act* (the 'Act').

The landlord appeared for the hearing and provided affirmed testimony in addition to documentary evidence which was provided in advance of the hearing. There was no appearance for the tenant despite being served notice of this hearing in accordance with the *Act*. The tenant provided no documentary evidence in advance of the hearing and as a result, the landlord's evidence was carefully considered in this Decision.

Issues(s) to be Decided

Is the landlord entitled to end the tenancy early with an Order of Possession?

Background and Evidence

This tenancy started on October 1, 2010 on a month-to-month basis. A written tenancy agreement was completed and the tenant paid a security deposit of \$800.00 and a pet damage deposit of \$400.00 in November, 2010 which the landlord still retains.

Currently, rent in the amount of \$1,600.00 is payable on the first day of each month and the tenant is responsible for paying his own utilities.

The landlord testified that on August 26, 2013 she received a letter from the city stating that an inspection of the rental unit was going to be conducted as they had noticed a significant increase in the hydro bills relating to the occupant of the rental unit.

On August 28, 2013 the landlord attended the rental unit with city officials, by-law officers and police officers. On entering the unit, the tenant was present and the inspection was conducted. During the inspection, the landlord testified that the officials stated that there was significant evidence of a marijuana drug use. The landlord testified that, although there was not any direct evidence of a grow up, the official indicated that there was significant evidence that drugs had been manufactured because they had completed air quality tests and observed significant changes that had been made by the tenant to the electrical wiring system.

The landlord testified that the officials questioned the tenant about this who stated that the increase in hydro was due to the use of the swimming pool. However, the officials did not believe this because of the evidence they had gathered from their investigation during the inspection. As a result, the city officials placed a red notice and a tag on the door of the rental unit which stated 'Do Not Occupy' and that the notice further went on to say that there would be a fine if the notice were to be removed by any person.

The landlord then received a letter the next day which was dated August 28, 2013 and produced as evidence for this hearing. The letter is from the city and states that the Electrical Fire and Safety Inspection Team conducted an inspection of the rental unit which has "Revealed evidence of a recent marijuana grow operation or clandestine drug lab." The notice goes on to say that the city's "Substance Property By-law includes specific regulations to protect public safety. A 'Do Not Occupy' notice is posted to ensure that there is no occupancy of the property by anyone until remediation of the property is completed."

The landlord testified that she must now carry out the re-mediation work as instructed by the city, who provided her with a list of approved contractors who must then supply the city with a report when the work is completed before the 'Do Not Occupy' order is lifted for re-rental. The landlord contacted a number of companies to carry out this work, one of which quoted \$4,461.15. In addition the landlord testified that she is also being required by the city to pay the costs of the inspection and resultant investigation, such as air quality checks and administrative costs, in the region of \$4,000. The landlord

estimated that her costs of dealing with the tenant putting her property at significant risk will go well over \$10,000.00.

The landlord also expressed concern about the way that this will impact her house insurance and testified that as long as the tenant remains in the unit, her home insurance may be invalidated and she cannot carry out the remediation work until the tenant vacates the unit. The landlord testified that the changes the tenant has made to the electrical system of the rental unit also presents a fire risk. As a result the landlord requests an Order of Possession to end the tenancy early.

Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would have otherwise been ended if an approved Notice to End Tenancy were given under section 47 of the *Act*. The *Act* also allows me to grant an Order of Possession for the rental unit if the tenant or persons permitted on the residential property by the tenant have done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- 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:
 - caused or is likely to cause damage to the landlord's property;
 - 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
 - jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord.
- caused extraordinary damage to the residential property

The *Act* goes on to say that the landlord may be issued with an Order of Possession 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 of the *Act*.

The tenant did not appear for the hearing to dispute the landlord's evidence or provide any evidence in advance of this hearing. I accept the landlord's undisputed testimony

and I find that the landlord has provided sufficient evidence to show that the tenant seriously jeopardized the health or safety or a lawful right or interest of the landlord and caused extraordinary damage.

This is evidenced by the letter from the city detailing the fact that they had discovered that evidence of a grow operation or a clandestine drug lab. The letter goes on to say that the property is being 'shut down' in accordance with specific regulations to protect public safety and that it must not be used or occupied until remediation work has been completed. The landlord also provided evidence of the potential costs she would be incurring and whilst the landlord did not provide evidence of these, I am satisfied, on the basis that the city provided her with a list of approved contractors to carry out the remediation work, that she is going to incur a significant cost running into thousands of dollars to repair the damage, further satisfying me that the tenant has caused extraordinary damage.

In addition, the landlord expressed concerns about the effect this would have on the validity of her home insurance and the risk of fire due to changes the tenant had made to the electrical system which first alerted the authorities to the problem. It is reasonable to assume that based on the 'Do Not Occupy' notice and the investigation of the city that this may indeed invalidate the landlord's current home insurance and as a result is further evidence that satisfies me that the tenant has put the landlord's property at significant risk.

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

As the landlord has been successful in this application, I find that the landlord is also entitled to be reimbursed for the \$50.00 cost of filing this application.

Conclusion

For the reasons set out above, I grant the landlord an Order of Possession effective **2 days after service on the tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

I also grant the landlord a Monetary Order pursuant to Section 72(1) of the *Act* in the amount of **\$50.00**. This order must be served on the tenant and may then be filed in the Provincial Court (Small Claims) 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: September 26, 2013

Residential Tenancy Branch

