



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

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

The hearing was conducted via teleconference and was attended by the landlord, her agent, and their witness. The landlord had arranged for a local police officer to attend the hearing as well, however testimony was not required and the officer was not called to provide any.

The landlord testified and provided documentary evidence that the tenant was served with the notice of hearing documents and this Application for Dispute Resolution, pursuant to Section 59(3) of the *Residential Tenancy Act (Act)* by posting them on the rental unit door on June 19, 2014 in accordance with Section 89. As per Section 90, the documents are deemed received by the tenant on the 3rd day after it was posted.

The landlord has submitted in the Application for Dispute Resolution that the tenant is no longer residing in the rental unit. The landlord's agent testified that the tenant has paid rent for the month of June 2014 and that he had been informed by occupants in the rental unit that the tenant was out of town. As there is no evidence to confirm that the tenant has actually moved out of the rental unit, I find the tenant still resides in the rental unit.

Section 89(2) of the *Act* states that an application for dispute resolution by a landlord seeking an order of possession must be given to the tenant in one of the following ways:

- (a) By leaving a copy with the person;
- (b) By sending a copy by registered mail to the address at which the person resides;
- (c) By leaving a copy at the tenant's residence with an adult who apparently resides with the tenant;
- (d) By attaching a copy to a door or other conspicuous place at the address at which the tenant resides;
- (e) As ordered by the director under section 71 (1).

Based on the testimony and submissions of the landlord, I find that the landlord has served the tenant with notice of this hearing and a copy of the Application for Dispute Resolution in accordance with Section 89 and the tenant has been sufficiently served.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession to end the tenancy early and without notice and to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to Sections 56, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on March 28, 2014 for a 1 year fixed term tenancy beginning on April 1, 2014 for a monthly rent of \$1,700.00 due on the 1st of each month with a security deposit of \$850.00 paid.

The landlord's agent submits that in April 2014 he received complaints from the tenants in the neighbouring duplex that they were being disturbed by this tenant and his guests. He went on to say that on April 11, 2014 the neighbours reported that they had found drug needles in the yard.

Further on June 5, 2014 the neighbours contacted the agent and indicated that the police had raided the rental unit early that morning. The landlord has provided into evidence a letter from the local police dated June 23, 2014 outlining the findings of that raid.

The letter advises that the police found a number of drug related items for using heroin and crack cocaine; several needles; meth; several thousand prescription pills; powder and crack cocaine; scales with drug residue; approximately \$2,000.00 and drug packaging materials.

The letter also states that 13 people were located in the rental unit at the time the warrant was executed and that the police are continuing to observe activity at the property that is consistent with drug sale and use and persons known by police to be involved in the local sex trade.

The letter stipulates the police are concerned about the safety and security of the community and warn that if the landlord fails to take action she may held accountable and face charges or civil proceedings.

Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy

were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or
 - 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 rental unit or residential property;
- b) 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 to take effect.

Based on the undisputed evidence and testimony provided by the landlord and her agent I am satisfied the landlord has established cause to end the tenancy. Specifically, I find the landlord has established the tenant or persons permitted on the property by the tenant have engaged in illegal activity that has or is likely to cause damage to the property; adversely affected the quiet enjoyment; security; and safety of other occupants; and is likely to jeopardize a lawful right of the landlord.

I also find, on a balance of probabilities, the landlord has established that it would be unreasonable to both the neighbouring tenants and the landlord to wait until a notice to end tenancy under Section 47 to take effect.

Conclusion

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court.

I find the landlord is entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$50.00** comprised of the fee paid by the landlord for this application.

This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order in the Provincial Court (Small Claims) and be 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 25, 2014

Residential Tenancy Branch

