



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Chilliwack Kiwanis Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:49 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord testified that he sent a copy of the landlord's dispute resolution hearing and written evidence package to the tenant by registered mail on May 8, 2014. The landlord entered into written evidence a copy of the Canada Post Customer Receipt containing the Tracking Number to confirm this registered mailing. In accordance with sections 89(2) and 90 of the *Act*, I find that the tenant was deemed served with the landlord's hearing package and written evidence package on May 13, 2014, the fifth day after the package's mailing.

Issues(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord testified that this periodic tenancy began on or about August 1, 2008. The tenant's current portion of the \$849.00 economic rent for this subsidized rental unit is \$219.00, payable in advance on the first of each month.

The landlord testified that he placed a copy of a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) in the tenant's mail slot on April 22, 2014. This 1 Month Notice cited an incorrect effective date to end this tenancy as May 5, 2014. The earliest

that the 1 Month Notice could take effect was May 31, 2014. The landlord testified that a hearing to consider the landlord's 1 Month Notice is scheduled for June 18, 2014. The error in the effective date of the 1 Month Notice can be corrected at that hearing.

The landlord applied for an early end to tenancy on May 8, 2014, after receiving news that the tenant and the male friend who was often staying with her at the rental unit had been "arrested and charged with possession for the purposes of trafficking." In the Details of the Dispute in the landlord's application for dispute resolution, the landlord cited an RCMP File number, but no further information to confirm the laying of charges against the tenant. The landlord also asserted that the tenant had breached her Tenancy Agreement and Addendum signed on March 29, 2012. The landlord submitted into written evidence a number of anonymized letters from other tenants in the building expressing these tenants' concerns about the activities of the tenant and her male friend at this rental property. The landlord said that he understood that a handgun was seized by the police at this rental unit.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has 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 interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

Based on the testimony of the landlord and the very limited written evidence before me, including evidence from individuals unwilling to attach their signatures to the depositions submitted to the landlord, I find that the landlord has failed to prove that any of the circumstances described above exist such that it would be unreasonable or unfair to the landlord or other tenants to wait for the 1 Month Notice to take effect. A hearing to consider the landlord's 1 Month Notice is scheduled for June 18, 2014, where the landlord will be required to meet a reduced standard of proof.

While I understand that tenants in this rental building may be very concerned about the continuation of this tenancy, I am unwilling to end a long-term tenancy of almost six years on the basis of such limited evidence regarding the charges allegedly laid against the tenant. None of the tenants in this building participated in this hearing and the landlord did not provide sufficient details to enable the approval of his application for an early end to this tenancy.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution. I am not satisfied that the landlord has demonstrated that it would be unfair or unreasonable to await the June 18, 2014 hearing of the landlord's application to obtain an Order of Possession on the basis of the 1 Month Notice. I dismiss the landlord's application for an early end to this tenancy. The landlord bears the cost of the filing fee for this application.

Conclusion

I dismiss the landlord's application with the effect that this tenancy continues. 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 02, 2014

Residential Tenancy Branch

