



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing was convened in response to an application by the Landlord for an early end of tenancy and an Order of Possession pursuant to section 56 of the *Residential Tenancy Act* (the “Act”). I accept the Landlord’s evidence that on September 30, 2014 the Tenant was personally served with the application for dispute resolution and notice of hearing in accordance with Section 89 of the Act. The Tenant did not participate in the conference call hearing. The Landlord was given 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?

Background and Evidence

The tenancy of a basement unit started on June 3, 2003. Rent of \$1,210.00 is payable monthly.

On September 22, 2014 the Tenant reported to the Landlord that he had demolished the bathroom walls and ceiling as there was a leak from the upper unit and mold in the unit. The Landlord told the Tenant to stop any further work and immediately initiated an inspection and repairs however the Tenant continued to remove drywall damaging the tub surround, tub and flooring. The Landlord provided photos and supporting evidence from contractors and plumbers in relation to the damages done by the Tenant and indicating that repairs for the minor leak would otherwise have been minimal.

The Landlord had previously served the Tenant with a one month notice to end tenancy for cause and the hearing on this matter is scheduled for October 20, 2014. The Landlord is concerned that the Tenant's behavior is going from bad to worse and is concerned about the significant risk of further damage to the property. The Landlord seeks an immediate end to the tenancy.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier than it would end if the landlord issued a one month notice to end tenancy for cause; and may apply for an order of possession for the rental unit. It is not necessary for the landlord to issue such a notice however, the landlord must show that:

- (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.

Based on the Landlord's undisputed and supported evidence, I find on a balance of probabilities that the Tenant caused extraordinary damage to the residential property and that in the circumstances it would be unreasonable or unfair to the Landlord to wait. Accordingly, I find that the Landlord is entitled to an Order of Possession. The tenancy therefore ends and the tenants must vacate the rental unit two (2) days after service of the Order of Possession provided to the Landlord with this decision.

As the Landlord has been successful with its application I find that the Landlord is entitled to recovery of the \$50.00 filing fee and if the Landlord holds a security deposit greater than this amount the Landlord may retain this amount from the security deposit in full satisfaction of the claim.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service** on the Tenant. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the Landlord an order under Section 67 of the Act for the amount of **\$50.00**. If necessary, this order may be filed 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: October 14, 2014

Residential Tenancy Branch

