



Dispute Resolution Services

Page: 1

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 landlords' application for an Order of Possession on an Early End to Tenancy.

Service of the hearing documents, by the landlords to the tenant, was done in accordance with section 89 of the *Act*; served by registered mail on October 14, 2014. Canada Post tracking numbers were provided by the landlords in sworn testimony. The landlords also testified that having tracked the hearing documents sent to the tenant they can confirm that the tenant collected the hearing documents on October 24, 2014. The tenant was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Are the landlords entitled to end the tenancy early and gain an Order of Possession on the basis of this application pursuant to section 56 of the *Act*.

Background and Evidence

The landlords testified that this month to month tenancy started on March 01, 2014. Rent for this unit is \$660.00 per month due on the 1st of each month. The landlords testified that the tenant still has possession of the rental unit and continues to pay rent for the unit although the tenant has appeared to have temporarily moved from the unit to be with her common-law partner.

The landlords testified that the unit is in a terrible condition. The landlords refer to their photographic evidence showing the condition of the unit both inside and outside in the yard. The tenant has kept unauthorised pets such as birds, rabbits and two donkeys at the unit along with a dog which was authorised to live outside and has since been run over. The donkeys have been taken away and one of the birds was left dead in its cage.

The landlords testified that the tenant's power to the unit was cut off on August 20, 2014. The tenant was made aware that this would happen by notice on the meter; however, the tenant did not take action to have the power restored or to remove food items that may spoil from the fridge, freezer or the tenants own chest freezer. This food has started to rot and the smell in the unit is horrendous. Other rotten food items are spilling out of the fridge and freezer onto the kitchen floor. The landlords also found the tenant had destroyed the fridge and freezer by using some sort of product on the outside which has taken the finish off the appliances and caused them to corrode. The landlords' washer and dryer have also been removed and thrown outside in the yard to be destroyed by the elements. The chimney from the wood stove has been removed and the tenant or a person permitted on the property by the tenant has hotwired an electrical conduit into one of the wall outlets which is a potential fire risk.

The landlords have the most concerns about the fact that the cold weather is swiftly approaching and without power to the unit this could cause significant damage to the pipes, toilet or water tank if they freeze without heat. The landlords testified that the tenant's actions have caused extraordinary damage to the unit and the landlords'

belongings in the unit and they seek an early end to tenancy in order to protect their property from further harm or risk.

Analysis

An early end to a tenancy under s. 56(2) of the *Residential Tenancy Act (Act)* is only given in extraordinary circumstances and only when the applicants can show that the situation is so extreme that it would not be reasonable to require the normal one Month Notice to End Tenancy given under section 47 of the *Act*. An early end to tenancy is granted and an Order of Possession for the rental unit is given if the tenant or persons 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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I have considered the evidence before me including the documentary evidence, the verbal testimony and the photographic evidence provided by the landlords. I find the landlords' evidence to be compelling that significant damage has already been caused to the landlords' property such as the fridge and freezer, the washer and dryer and the chimney and electrical wiring in the rental unit. This evidence is compelling as it depicts the condition of the rental unit and shows that the power to the unit has been turned off which has caused the food items left in the unit to rot. The pictures also show an electrical outlet has had wiring connected to it which could potential be a fire risk if the power is restored to the unit.

From the evidence presented I find the tenant has put the tenancy at risk through her disregard to s. 32 of the Act and through the manner in which the tenant has allowed the rental unit to fall into such a poor condition. This alone would not be sufficient to warrant an early end to the tenancy; however, I am more concerned with the fact that in this region of Canada the cold weather is swiftly approaching and without power to the unit the tenant will put the rental unit at risk of freezing pipes, toilets and the water tank which could cause extraordinary damage if these items were to freeze in the winter months.

I am therefore satisfied from the evidence before me, 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 in doing so it may prevent the landlords from carrying out the work required to protect their property from freezing or for any further damage such as fire risk or odors from rotten food which are difficult to remove.

Conclusion

The landlords' application for an Order to End Tenancy Early is granted. An Order of Possession has been issued to the landlords to take effect **two days** after service on the tenant. A copy of this Order must be served on the tenant. The Order of possession is enforceable through the Supreme Court of British Columbia.

I find that the landlords are entitled to be reimbursed for the **\$50.00** cost of filing this application. I order that the landlords retain this amount from the security deposit of 330.00 leaving a balance \$280.00 which must be returned to the tenant or otherwise dealt with in compliance with section 38 of the *Act*.

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: November 04, 2014

Residential Tenancy Branch

