



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 concerning an application made by the landlord for an order ending the tenancy early and to obtain an Order of Possession, as well as for recovery of the filing fee for the cost of the application.

The landlord attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, despite being served with the Landlord's Application for Dispute Resolution, evidentiary material and notice of hearing documents by registered mail on December 1, 2014, no one for the tenants attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and the only participant who joined the call was the landlord. The landlord testified that both tenants were served on that date and in that manner and has provided a copy of the Canada Post receipt bearing that date, and Registered Domestic tickets showing the tracking numbers for each registered mail item, and I am satisfied that both tenants have been served in accordance with the *Residential Tenancy Act*.

The landlord also provided evidentiary material to the Residential Tenancy Branch on December 5, 2014 but has not provided it to the tenants due to time constraints, and since the tenants have not seen that evidence, I decline to consider it. All other evidence has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Has the landlord established that an Order of Possession should be issued ending the tenancy earlier than a notice to end the tenancy would take effect?

Background and Evidence

The landlord testified that this fixed-term tenancy began on November 1, 2014 and expires on October 31, 2015. Rent in the amount of \$1,250.00 per month is payable in advance on the 1st day of each month. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$625.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment style condominium in a complex that contains 4 floors with 10 or 15 units on each floor, and the landlord only owns the rental unit.

The landlord further testified that during the evening of November 13, 2014 one of the tenants was away working and the other tenant ran a bath, passed out, and the water continued to run over the bathtub and onto the floor. The landlord is not certain how long the water ran, however a resident in the lower level noticed water running down from his ceiling, went upstairs to the tenants' rental unit, knocked on the door, and upon receiving no answer, went in. The door was not locked and the resident found the bath still running. The landlord has provided numerous documents from a restoration company showing work that needs to be completed to the rental unit and other units as a result of the flooding caused by the tenant.

The following day the landlord visited the tenant who had run the bath. When the landlord arrived at the rental unit, the door was open, the tenant was on the phone yelling at someone, and the landlord saw a very different person in the tenant. The tenant's eyes were bloodshot, had slurred speech and couldn't sit straight. The tenant admitted that she had been in a rehabilitation program, and the landlord told the tenant that in order to continue the tenancy, the landlord had to be able to trust that the tenant would not cause more damage.

When the other tenant returned from working up north, the landlord had a discussion with him advising that someone had to take responsibility for the damage, and that the landlord could have called lawyers to enforce costs associated with the damage caused. The tenant advised that he would ensure that both tenants moved out and would have the other tenant give the landlord the keys so they could be provided to contractors. That hasn't happened; the keys have not been returned to the landlord. There were no offers to help and no rent was paid for December, 2014. He is away working again and will return on December 15, 2014. Some furniture belonging to the tenants still remains in the rental unit, however, the landlord does not know if either tenant stays there.

The landlord issued a 1 Month Notice to End Tenancy for Cause on November 29, 2014 and served the tenants that day by posting the notice to the door of the rental unit. A copy has been provided and it is dated November 29, 2014 and contains an expected date of vacancy of December 31, 2014. The reasons for issuing the notice are:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord;
 - put the landlord's property at significant risk;
- Tenant has engaged in illegal activity that has, or is likely to:
 - damage the landlord's property;
 - adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord;
 - jeopardize a lawful right or interest of another occupant or the landlord.

The landlord asks for an Order of Possession without waiting until the effective date of the notice because the landlord fears further damage, and the contractors retained to complete the restoration work cannot do so unless the rental unit is vacant and no furniture remains. None of the work has yet commenced. Also, the landlord is concerned that the lack of responsibility taken by the tenants and the negligence of the tenant's actions has also impacted other units.

Analysis

I have reviewed the evidentiary material provided by the landlord, and particularly the documentation provided by the restoration company. Combined with the affirmed testimony of the landlord, I am satisfied that the tenant has caused significant damage to the rental unit and to other units of the complex. I am also satisfied that the restoration work cannot be commenced until the rental unit is vacant and all furniture has been removed. I am also satisfied that the landlord has established that the landlord is fearful of other damage that may be incurred by the tenants, and I find that the landlord has established that an Order of Possession on 2 days notice to the tenants is warranted under the *Residential Tenancy Act* due to the significant damage.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord on 2 days notice to the tenants.

I hereby grant a monetary order in favour of the landlord as against the tenants pursuant to Sections 67 and 72 of the *Residential Tenancy Act* in the amount of \$50.00 as recovery of the filing fee.

These orders are final and binding and may be enforced.

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: December 10, 2014

Residential Tenancy Branch

