



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

ET

Introduction

This hearing was scheduled to hear a landlord's application for an early end of tenancy and an Order of Possession. The landlord testified that the hearing documents were posted to the door of the rental unit on February 19, 2015. Section 90 of the Act provides that a person is deemed to have received documents three days after they are posted on the door of the rental unit. I accepted the landlord's undisputed testimony and pursuant to section 90 found the tenant is deemed have been served with notification of this proceeding. Therefore, I continued to hear from the landlord without the tenant present.

Issue(s) to be Decided

Is the landlord entitled to an order to end the tenancy early and an Order of Possession?

Background and Evidence

The tenancy commenced October 1, 2014. The tenancy agreement identifies one tenant and other occupants that are permitted to occupy the rental unit.

On February 17, 2015 the police executed a search warrant at the property under the *Controlled Drugs and Substances Act*. The police seized many of the more expensive items in the house including electronics and the tenant was taken to jail. Since February 17, 2015 neither the tenant nor the other occupants have returned to the property. The landlord was informed by the police the tenant is prohibited from being in the area of the rental unit. Nor, has the tenant made any contact with the landlord with respect to his tenancy or his possessions and has not paid rent for March 2015.

The landlord testified that she has since installed new doors and locks to secure the rental unit because the police removed one of the doors and smashed in two other doors. The landlord testified that the property has been significantly damaged and much garbage was in the rental unit.

The landlord invited me to contact the police officer involved in this case if I wished to verify the information submitted to me by the landlord.

Provided for my review was a copy of the search warrant; business car of the police office with the Organized Crime Unit involved in this search; and, the tenancy agreement.

Analysis

Section 56(2) of the Act permits an Arbitrator to make an order to end the tenancy on a date that is earlier than the effective date on a 1 Month Notice to End Tenancy for Cause had one been issued. In order to grant an order to end the tenancy early I must be satisfied 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.

[my emphasis added]

The landlord bears the burden to prove the tenant has acted in such a way as to warrant an order to end the tenancy earlier than by way of a 1 Month Notice. The burden is high as this provision is intended to apply in the most severe circumstances.

Based upon the undisputed evidence before me, I am satisfied that the tenant, or a person permitted on the property by the tenant, was engaged in illegal activity at the rental unit and that the sale, distribution or trafficking of heroin, cocaine and/or fentanyl:

- caused, or was likely to cause, significant damage to the property; and,
- jeopardized or was likely to jeopardize the landlords lawful right or interest in the property.

While it appears the tenant may have abandoned the property due to the circumstances of this case, which would return possession of the property to the landlord, by way of this decision I **also ORDER that this tenancy is at an end effective immediately.**

As the tenant and the other occupants are no longer residing in the rental unit and the landlord has changed the locks to secure the property, I find it unnecessary to provide the landlord with an Order of Possession. However, the landlord must treat the tenant's personal property as abandoned property in accordance with the Residential Tenancy Regulations.

Information concerning abandoned property rules may be found on the Branch's website or by speaking with an Information Officer with the Residential Tenancy Branch.

Conclusion

I have ordered the tenancy ended effective immediately. I have not provided an Order of Possession with this decision as the landlord has already secured possession of the rental unit; however, the any remaining possessions in the rental unit must be treated as abandoned property in accordance with the Residential Tenancy Regulations.

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: March 04, 2015

Residential Tenancy Branch

