



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

A hearing was conducted by conference call in the presence of three representatives of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the Tenant by mailing, by registered mail to where the Tenant resides on June 20, 2015. . With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the landlord is entitled to an order for the early termination of the tenancy agreement?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The tenant has lived in the rental unit for a period on time. IN April 2015 the landlord purchased the property. On May 1, 2015 the landlord entered into a one year fixed term tenancy agreement with the tenant that was to end on April 30, 2016. The rent is \$12lt is uncertain whether the tenant paid a security deposit to the previous owner and if so how much.

On June 17, 2015 the landlord conducted a regular inspection and it was apparent there were significant problems with the rental unit. Photographs were taken. DM, the

landlord's Health and Safety Manager was called in and he conducted an inspection the next day.

DM testified at the hearing. He is qualified as an Occupational hygienist and teaches the course at BCIT. He holds a number of certifications and tickets in the area. He testified that as of the date of the inspection in his opinion the rental unit is an imminent threat to the health and safety of people coming in contact with the rental unit. He has instructed the landlord that they do not have the skills and equipment to deal with this hazardous situation and they are not to enter the rental unit.

DM provided the following written evidence in a memo dated June 19, 2015. He expressed the opinion that the rental unit poses a significant Health & Safety concern for the occupant of the unit, occupants of the building, the public, site cleaners, site landscapers, site maintenance works and resident managers for the following reasons:

1. Immediate fire hazard as well as access and egress challenges with the amount of clutter and debris in the unit. There is little room to walk, let alone navigate towards the exits in the event of fire or natural disaster.
2. Contaminated/soiled surfacing materials which included: countertops, walls and floors. There is organic food debris throughout the unit, as evidenced by direct observation - This includes bugs, rat droppings, gnats and mildew growth.
3. Conditions of the unit are unsanitary to say the least: the refrigerator is full of bacterial growth, spoiled food waste and garbage. The floor area of the unit has excessive amounts of garbage, spoiled food waste and debris.
4. Surfacing materials of the unit may be compromised as a result of debris and organic clutter. This may potentially impact the structural integrity of the unit in terms of mould growth in areas that could not be accessed due to debris.
5. The conditions of this unit significantly endanger the safety and rights of the landlord and other residents of the building and has caused significant surfacing material damage.

The photographs provided by the landlord corroborate the evidence of DM. The representatives of the landlord testified the tenant has barricaded the door to the rental unit to deny access. As a result they are unable to determine whether the situation has improved.

Application for order ending tenancy early

56 (1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(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.

Analysis:

I determined the landlord is entitled to an early termination of the tenancy. I am satisfied based on the evidence presented including the opinion of the Health and Safety Officer of the company that the rental unit in its present state poses an immediate threat to health and safety of the landlord and other tenants. I am also satisfied the tenants failure to properly clean the rental unit has put the landlord's property at significant risk. I ordered the tenancy shall end forthwith.

Analysis - Order of Possession:

I determined the landlord was entitled to an Order for Possession. I determined the landlord is entitled to an early end to the tenancy. **Accordingly, I granted the landlord an Order for Possession effective on two days notice. I further order that the tenant pay to the landlord the sum of \$50 for the cost of the filing fee.**

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, the landlord may register the Order with the Supreme Court of British Columbia for enforcement.

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: July 17, 2015

Residential Tenancy Branch

