



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an Application for Dispute Resolution filed on November 12, 2015, by the Landlord to end the tenancy early and obtain an Order of Possession.

The hearing was conducted via teleconference and was attended by the Landlord's agent, M.L. who gave affirmed testimony.

M.L. testified that she served both Tenants by registered mail to the rental unit on November 16, 2015. The Landlord provided copies of the receipt for registered mail in evidence. Section 90 of the *Residential Tenancy Act* provides that documents served in this manner are deemed served 5 days later. Based on the submission of M.L. and the evidence filed, I find the Tenants were sufficiently served Notice of this proceeding on November 21, 2015; accordingly, I proceeded in the Tenants' absence.

Issues to be Decided

Should the Landlord be granted an end of tenancy and an Order of Possession?

Background and Evidence

The Landlords submitted evidence that the parties executed a written tenancy agreement for a month to month tenancy that commenced on April 1, 2015. The Tenants are required to pay rent of \$1,750.00 on the first of each month. On March 7, 2015, the Tenants paid \$850.00 as the security deposit.

She testified that the rental unit was a house located on a three acre property with a total of three houses all owned by the Landlords. All three of the houses are rented out and all renters share a driveway.

M.L. testified that in October of 2015, her father in law, B.L., noticed that the garage door had been broken into. He called the police and when the police arrived they advised B.L. that they had already arrested the Tenant D.C. in another community. M.L. testified that after obtaining a search warrant, the police searched the property and a search of the property indicated that the Tenants were operating a methamphetamine lab in the rental unit and storing stolen property. M.L. also testified that during the search of the property, her father in law, B.L. noticed that the Tenants also bypassed the electrical panel.

The Landlord submitted in evidence a Media Release from the police which confirmed that the Tenant, D.C. was arrested on October 2, 2015 in relation to a break and enter in another community. The Release indicates that the vehicle used by D.C. and his accomplice contained 1 kilogram of crystal methamphetamine, stole credit cards, a hand gun, a shotgun and ammunition.

M.L. testified that both Tenants have been charged with offences relating to crimes allegedly committed at the rental property. M.L. further testified that even though she believes the Tenants are currently incarcerated, people continue to come to the property at various times of the day and night which is very concerning to the other renters on the property.

M.L. further testified that the Tenants failed to pay the full amount of rent for October 2015 leaving a balance of \$250.00 owing and failed to pay rent for November or December 2015. The Landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities which was undisputed.

M.L.'s oral submission confirmed that the Landlords are seeking an early end of tenancy because of the Tenants' illegal activity at the rental unit and the potential for aggressive and violent behaviour. M.L. further testified that the Landlords are frightened of the Tenants and their potential response due to the fact the Landlord called the police based on what appeared to be a break in. M.L. testified that the other renters on the property are also afraid of the Tenants and their "guests", the latter of which continue to attend the property.

M.L. testified that to her knowledge the Tenants had a court date on December 14, 2015 in the community in which the rental unit is located. M.L. was not aware if the Tenants had been released from custody.

M.L. further testified that although the Tenants are in custody “someone” keeps changing the locks to the garage and that someone damaged the back door to the rental unit with a brick.

Analysis

Section 56 of the *Act* allows a tenancy to be ended early without waiting for the effective date of a one month Notice to End Tenancy if there is evidence that the tenants have breached their obligations under the tenancy agreement or *Act* and it would be unreasonable or unfair to wait for the effective date of a one month Notice to End Tenancy. For greater clarity, section 56 provides as follows:

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.

(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.

Based on the evidence before me, and in the absence of any evidence from the Tenants who did not appear despite being properly served with notice of this proceeding, I accept the Landlord's undisputed version of events as discussed by M.L. and corroborated by their evidence.

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find that the Tenants have:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property at significant risk;
- engaged in illegal activity that
 - has caused or is likely to cause damage to the landlord's property,
 - 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
 - has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property, and

and 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.

The Landlord submitted evidence that the Tenants engaged in illegal activity in the rental unit and garage. I find that the operation of a methamphetamine lab has caused or is likely to cause damage to the Landlord's property. I also accept that the Tenants, in bypassing the electrical panel, have caused damage to the residential property.

The Landlord further submitted evidence that the Tenants are in possession of firearms and ammunition. I accept M.L.'s testimony that the Landlord and the other renters on the rental property are afraid of the Tenants.

Therefore, in consideration of the above, and the test in section 56, I grant the Landlords' application to end this tenancy early.

Conclusion

The Landlord is entitled to an Order of Possession effective **Immediately after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme 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: December 18, 2015

Residential Tenancy Branch

