



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an early end of the tenancy and an Order of possession and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

The landlord provided affirmed testimony that copies of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant via registered mail to the rental unit address on April 6 2016. The landlord provide a Canada Post tracking number as evidence of service. The mail was returned marked by Canada Post as unclaimed. These documents are deemed to have been served on the fifth day after mailing, April 11, 2016, in accordance with section 89 and 90 of the *Act*.

The tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?

Is the landlord entitled to an Order of possession?

Background and Evidence

This tenancy commenced in January 2011. Rent is due on first day of each month. The landlord is holding a security deposit in the sum of \$360.00.

The rental unit is one of 10, in a converted heritage building. The landlord and his brother each have a rental unit in the building.

On April 1, 2016 the landlord returned to the building to find the police; fire department and the other tenants and their pets were on the street in front of the building. The landlord discovered that the tenant had turned on the gas to her stove and left it running.

The fire department had the gas service to the building shut off. The landlord then had a gas company restart the gas and boiler. The gas technician told the landlord they found the gas stove had been left fully on in the tenants' unit.

The landlord said that the tenant had also filled the fireplace with paper and kindling. The landlord was told by another occupant that the tenant had been distraught and called a friend for help; saying she was suicidal. The landlord was told the tenant was intoxicated at the time she turned on the gas and that she was considering lighting the fireplace.

The landlord said that this event was extremely upsetting for him, his brother and the other tenants of the building. The tenants have pets, who they were concerned about. The landlord said that if the tenant had lit the fireplace the building could have been destroyed and people could have been seriously injured.

The landlord read from a bail supervision order issued to the tenant; copies were issued to the landlord and each resident of the building. Among conditions such as a drinking and consumption prohibitions, the tenant is not to possess incendiary devices outside of a single lighter. The tenant is not to attend at the rental unit or within a one block radius. The tenant was allowed a single visit to the residence, in order to retrieve personal belongings. The bail order indicated an offence of fear of damage or injury to another person.

On April 12, 2016 the tenant was at the rental unit and removed all of her personal property. The landlord believes he has possession of the rental unit but wants to ensure he has the legal authority to re-rent the unit. The tenant had given written notice to end the tenancy effective March 31, 2016, but failed to vacate.

The landlord said that if issued an Order of possession he wishes to cancel an upcoming hearing scheduled to be held on May 5, 2016 (see cover for file number.) The landlord has previously issued a one month Notice to end tenancy for cause and has applied requesting an Order of possession.

The landlord submitted a copy of two letters issued by current tenants of the building. Both outline concerns regarding the tenants' behaviour. One tenant submits, after five years in the building, after the most recent issue with the gas the tenant fears for her safety and that of her dog and she is considering moving out.

Analysis

In order to establish grounds to end the tenancy early, the landlord must not only establish that he has cause to end the tenancy, but that it would be unreasonable or unfair to require the landlord to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the testimony of the landlord, and in the absence of the tenant who was served with Notice of this hearing, I find that the landlord has met that burden.

A tenancy may end early, without the benefit of a Notice ending tenancy, based on section 56 of the act, which provides:

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*

In relation to sufficient cause, I am satisfied that there is adequate evidence to support that the tenant's actions led to the evacuation of the building on April 1, 2016. This was an event that caused the other occupants to fear for their personal safety. The tenant has been released on a supervision order, with conditions that support the landlord's submission that the tenant posed a potential risk to those living in the building. It is not for me to determine whether the actions of the tenant contravened the *Criminal Code* but to assess whether the tenants' behaviour has or has likely adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord, or jeopardized a lawful right of or interest of an occupant or the landlord.

From the evidence before me I find it is likely that the tenants and landlord have a legitimate reason to feel that their personal safety is at risk should the tenant be allowed to return to the building. The possibility of the building being destroyed by an intentional gas leak or fire is a reasonable fear in this circumstance. Therefore, I find that there is sufficient cause to end the tenancy.

Given the serious nature of the allegations and the potential harm that could come to the other tenants, the owner and his brother I find that it would be unreasonable and unfair for the landlord to wait for a Notice ending tenancy for cause to come into force under section 47 of the Act. Therefore I find that the landlord is entitled to an order for possession, pursuant to section 56(1) of the Act.

The landlord has been granted an Order of possession that is effective **two days after it is served upon the tenant**. This Order may be served on the tenant, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

As the landlord's Application has merit I find pursuant to section 72 of the Act that the landlord is entitled to the sum of \$100.00. This sum may be deducted from the \$360.00 security deposit held in trust. The landlord will now hold a deposit in the sum of \$260.00 plus any accrued interest.

Conclusion

The landlord is entitled to end the tenancy in accordance with section 56 of the Act.

The landlord has been issued an Order of possession.

The landlord may deduct the \$100.00 filing fee from the security deposit.

This decision is final and binding on the parties and 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: April 29, 2016

Residential Tenancy Branch