



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes ET FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for an early end to the tenancy pursuant to section 56;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 11:30 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions.

The landlord testified that on June 28, 2016, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. A registered mail tracking number was provided in support of service.

Based on the above evidence, I am satisfied that the tenant was deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 & 90 of the Act. The hearing proceeded in the absence of the tenant.

The landlord also submitted an additional evidence package on July 15, 2016 which was not within the timelines for submitting evidence as per the residential Tenancy Branch, Rules of Procedure. The landlord testified that this evidence was not available at the time of the application as he had to request the evidence from the New West Police Department through a Freedom of Information Request. The landlord testified that this additional evidence package was served to the tenant by placing a copy in her mailbox on July 16, 2016. I allowed the additional evidence as I find it was not available at the time of application and I am satisfied the tenant has been served with a copy.

Issues

Is the landlord entitled to an order of possession for an early end to the tenancy?

Is the landlord entitled to recover its filing fee?

Background (Facts Not in Dispute)

The rental unit is a detached 1 bedroom laneway house on the back of the landlord's property. The landlord resides on the main house on the property. The tenancy began on November 1, 2015 with a monthly rent of \$700.00 payable on the 1st day of each month. The tenant paid a security deposit of \$300.00 at the start of the tenancy. The landlord testified that he continued to hold this \$300.00 security deposit.

Evidence & Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in 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.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice for cause to take effect.

The landlord submits the tenant has put the landlord and the landlord's property in danger. The landlord alleges the tenant is conducting illegal activity including prostitution and purchasing/selling drugs and the people coming to the rental unit as a

result of the tenant's activities have put the landlord and the landlord's property in danger. The landlord provided digital evidence from surveillance cameras installed on the property as well as extensive notes describing the events in the surveillance videos. The landlord submits that this surveillance video supports his allegation that the tenant was carrying on illegal activities alleged above as many different males can be seen coming and going from the rental unit daily.

The landlord testified that police have been called to the rental property over 7 times over the period of the last two months.

The landlord submitted records obtained from the New West Police Department which show that an incident occurred at the property on May 31, 2016. The landlord testified that on this date, two unknown males approached the rental unit and were speaking to the tenant and/or another occupant through the window of the rental unit. The unknown males were knocking & banging on the door of the rental unit but the person inside refused to open the door. The landlord submits that the tenant must have known these individuals as the curtain on the inside of the door window can be seen being lifted in the video. Shortly after, one of the males then took a crowbar and smashed the window of the vehicle. The police report indicates that the occupant refused to answer any questions of the constable attending to the incident.

On June 17, 2016, the same two unknown males again showed up at the rental property and this time the police were called. The two males were released after they were questioned by the police. The police attended the rental unit again later on this same night as the tenant's had themselves called the police in fear of their safety. The landlord was advised by the police that the two unknown males were known to the police and the landlord should have the tenants evicted.

I find the evidence supports a finding that the tenant or a person permitted on the property by the tenant has put the landlord and the landlord's property in significant risk. I find that on a balance of probabilities the persons who smashed the window on the door of the rental unit are known to the tenant and were on the property as a result of activities carried on by the tenant and/or another occupant of the rental unit.

In the circumstances I find it would be unreasonable, or unfair to the landlord to wait for a 1 Month Notice for cause to take effect. Accordingly, I find that the landlord is entitled to an order for possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an Order of that Court.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. This amount can be retained from the tenant's security deposit.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant. Should the tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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 20, 2016

Residential Tenancy Branch