



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LANGLEY LIONS SENIOR CITIZENS HOUSING SOC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC MND

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an Order of Possession for cause pursuant to section 55, and a monetary order for damage to the rental property under the *Act* pursuant to section 67.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to call witnesses, and to make submissions. The landlord's agent, JD, testified on behalf of the landlord in this hearing and was given full authority by the landlord to do so by the landlord.

The tenant confirmed receipt of the landlord's dispute resolution package, including the evidence package. In accordance with section 89 of the *Act*, I find that the tenant was duly served with the Application.

JD testified that the landlord delivered the 1 Month Notice to End the Tenancy for Cause (the "1 Month Notice") to the tenant in person on September 27, 2016, with an effective date of October 31, 2016. The landlord entered into written evidence a copy of that Notice. The tenant did not dispute the receipt of this notice. I find the tenant duly served with the 1 Month Notice, pursuant to section 88 of the *Act*.

Issues to be Decided

Is the landlord entitled to an Order of Possession for cause?

Is the landlord entitled to a Monetary Order for damage caused by the tenant?

Background and Evidence

The landlord's agent testified that this month to month tenancy began in June 2015. The current rental amount is \$320.00 due on the first of each month. The landlord currently holds a security deposit in the amount of \$172.50 and the tenant continues to reside in the rental unit.

The landlord's agent testified that in the spring of 2016 the tenant's mental health deteriorated, and as submitted in the oral testimony and in written evidence, an incident happened in September where the tenant was found painting several Lion statues on the rental property. A police file number was included in the evidence as well as several black and white photocopied photos of the painted lions. The landlord submitted an invoice in the evidence package, for material and labour to fix the damage in the amount of \$405.00.

The landlord's agent also testified that the tenant was hospitalized for his mental state, and his rent payment was subsequently late. She also testified that the tenant had a hoarding situation in the apartment, and was abusing substances. She submitted that the landlord has been working with the tenant's social worker, and that his behaviour has been deteriorating since the spring of this year. The landlord was concerned that the tenant's mental health was unstable, and therefore is a risk to others and the landlord's property.

The landlord submitted the notice to end tenancy providing two grounds:

1. the tenant is putting the landlord's property at significant risk and
2. the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property.

The tenant did not dispute the fact that he painted the lion statutes, but that he did it on the dare of a friend. He testified that he offered to repaint the lions, but was refused. He also stated that the state of his apartment was because he was not ready for the inspection at the time, and was unable to clean it due to being hospitalized. He submitted that he is not a hoarder, and worked full and part-time jobs. He also submitted that he did not use illegal drugs, and was only late paying his rent on one occasion.

Analysis

Section 47 of the *Residential Tenancy Act* allows the landlord to end a tenancy for cause:

47 (1) *A landlord may end a tenancy by giving notice to end the tenancy if one or more of the following applies...*

(d) the tenant or a person permitted on the residential property by the tenant has...

(iii) put the landlord's property at significant risk;

(e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that...

(i) has caused or is likely to cause damage to the landlord's property...

Although the tenant has provided a reason for damaging the landlord's property in September, the explanation does not justify the behaviour. The incident was serious enough to warrant a police investigation, and the landlord subsequently had to pay \$405.00 to repaint the lions. The tenant's behaviour, and justification, supports the landlord's concern that the tenant is likely to put the landlord's property at significant risk. I find the landlord has met the burden of proof to justify that there is sufficient cause to end this tenancy on the grounds that the landlord has reason to believe that the landlord's property would be at significant risk if this tenancy were to continue. Therefore, I am granting the landlord's application to end this tenancy for cause.

I also grant the landlord's application for a Monetary Order for damage to the landlord's property, in the amount of \$405.00.

The landlord continues to hold the tenant's security deposit of \$172.50. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain the tenant's security deposit of \$172.50 plus applicable interest in partial satisfaction of the monetary claim. Over the period of this tenancy, no interest is payable on the security deposit.

Conclusion

I find that the landlord's 1 Month Notice is valid and effective as of October 31, 2016.

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.

I order the landlord to retain the tenant's security deposit of \$172.50 in partial satisfaction of the monetary claim.

I issue a \$232.50 Monetary Order in favour of the landlord under the following terms, which allows the landlord to recover the cost of repairing the damage to the landlord's property while allowing the landlord to retain the tenant's security deposit:

Item	Cost
Cost of fixing the damage to landlord's property	\$405.00
Less security deposit	-172.50
Total Monetary Award	\$232.50

The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

This Decision is final and binding on both parties.

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 29, 2016

Residential Tenancy Branch