



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Tenant's Application made October 31, 2016: AAT; LAT; LRE; MNDC; MNSD; O; OLC;
OPT; RPP; FF
Landlord's Application made November 4, 2016: OPR; MND; MNR; MNSD; MNDC;
FF; ET

Introduction

This matter was scheduled to be heard by teleconference on December 1, 2016 at 9:30 a.m. Both parties made Applications for Dispute Resolution.

The Tenant seeks access to the rental unit; authorization to change the locks to the rental unit; an order suspending or setting conditions on the Landlord's right to enter the rental unit; compensation for damage or loss; return of the security deposit; an order of possession of the rental unit; an order that the Landlord comply with the Act, regulation or tenancy agreement; return of his personal property; "other orders"; and to recover the cost of the filing fee from the Landlord.

The Landlord seeks an order of possession for unpaid rent; a monetary award for unpaid rent and damages to the rental unit; compensation for damage or loss; to apply the security deposit towards her monetary award; an early end to the tenancy; and to recover the cost of the filing fee from the Tenant.

Preliminary Matters

The Dispute Resolution process determines issues between landlords and tenants. The Landlords testified that they do not own the rental property, but that they rent the rental property from their landlord. The property that the Landlords rent from their landlord consists of a house and a "carriage house", which is a separate structure. The Landlords' landlord is aware that, and has given express permission for, the Landlords to rent out the carriage house.

I find that the Landlords are landlords and that the Tenant is their subtenant. Therefore, I accept jurisdiction of this matter.

The Landlord and co-Landlord signed into the teleconference and were ready to proceed. The telephone conference remained open for 30 minutes, but the Tenant did not sign into the Hearing. Therefore, the **Tenant's Application for Dispute Resolution is dismissed without leave to reapply.**

The Landlords gave affirmed testimony at the Hearing. They testified that they served the Tenant with their Notice of Hearing documents, by registered mail sent on November 10, 2016, to the Tenant's address for service provided on the Tenant's Application for Dispute Resolution. The Landlords stated that the package was returned to them "unclaimed" on November 29, 2016. The Landlords provided a copy of the registered mail receipt and tracking number. I find that the Tenant was duly served with the Landlord's Notice of Hearing documents pursuant to the provisions of Section 89 of the Act.

I explained to the Landlords that Rule 2.3 of the Rules of Procedure requires that claims on an Application for Dispute Resolution must be sufficiently related in order to be heard together. The Landlords indicated that they wished to continue with respect to their application for an early end to tenancy and recovery of the filing fee. Therefore, I dismissed the remaining portions of the Landlord's Application **with leave to reapply.**

Issue(s) to be Decided

Have the Landlords provided sufficient evidence that the tenancy should end under the provisions of Section 56 of the Act?

Background and Evidence

The Landlords stated that they believe the Tenant may have moved out of the rental unit. They testified that on October 24, 2016, they posted a notice to enter the rental unit. The Landlords went to the rental unit on October 26, 2016, and found that the front door was barricaded from the inside. Once they gained entry, they found that the Tenant had left personal items in the rental unit. In addition, the Tenant left two cars at the rental property.

The Landlords testified that the Tenant was arrested on October 18, 2016, for uttering threats to cause death or bodily harm to the Landlords and threatening to burn, destroy, or damage property. The Landlords provided a copy of the Tenant's Recognizance of

Bail document, which includes conditions that the Tenant have no direct or indirect contact with the Landlords and not attend within 200 meters of the rental unit.

Analysis

Section 56 of the Act provides:

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 Landlords' undisputed affirmed oral testimony and documentary evidence, I am satisfied, on the balance of probability, that the Landlords have met the requirements of Section 56(2)(a) and (b) of the Act. I find that the Landlords are entitled to an immediate Order of Possession.

The Landlords asked what to do with the Tenant's personal possessions and I directed them to the Residential Tenancy Branch's website and Part V of the regulation.

Conclusion

I hereby provide the Landlord with an Order of Possession, which may be posted to the door of the rental unit. Section 90 of the Act deems service in this manner to be effected 3 days after posting the document, after which time this Order may be enforced in the Supreme Court of British Columbia.

The Landlord has been successful in her application for an early end to the tenancy and I find that she is **entitled to recover the cost of the \$100.00 filing fee from the Tenant. Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct \$100.00 from the security deposit.**

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 01, 2016

Residential Tenancy Branch

