



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MISSION & DISTRICT SENIOR CITIZENS HOUSING ASSOCIATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

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

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

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package via Canada Post Registered Mail on January 25, 2017 and has provided a copy of the Canada Post Customer Receipt Tracking label as confirmation of service. The landlord provided direct testimony that upon review of the Canada Post website for online tracking, the tenant received the notice of hearing package and signed in receipt of it on January 27, 2017. I accept the undisputed affirmed evidence of the landlord and find that the tenant has been properly served as per sections 88 and 89 of the Act. Although the tenant failed to attend the hearing, I find that the tenant was sufficiently served as per section 90 of the Act 5 days later on January 30, 2017.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an order of possession?
Is the landlord entitled to a monetary order for recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord seeks an early end to the tenancy and an order of possession as well as recovery of the filing fee.

The landlord provided both written details and undisputed affirmed testimony that the tenant has and is granting street people access to the building and to his rental unit. The landlord stated that the tenant is opening the door and using the intercom to allow access into the building. The landlord stated that the tenant was advised that the access was not appropriate as the street people are not tenants and have been found sleeping in the stairwells, using needles (and discarding them in the building). The landlord stated that 3 Fentanyl overdoses have occurred in the tenant's rental unit within a 2 week period. The landlord stated that the police have attended on several occasions regarding these activities and that the tenant continues to allow access to the building and the rental unit. The landlord stated that the tenant provided a statement to him that he would not stop his actions.

The landlord also provided undisputed affirmed evidence that the ongoing access that the tenant is allowing is jeopardizing the health and safety of the other residents and the landlord. The landlord provided undisputed affirmed testimony that on some occasions the "street people" are defecating in the building. The landlord stated that many of the residents are seniors who suffer from ill health and lower immune systems and that their health and safety are at risk.

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 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 to take effect. A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56

requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be “unreasonable or unfair” to wait for a cause notice to take effect.

In this case, I accept the undisputed affirmed evidence of the landlord and find that the tenant has been giving access to the building and the rental unit to “street people” which seriously jeopardized the health and safety of other occupants of the building and the landlord by allowing them access into the building. I accept the undisputed evidence of the landlord that the tenant was advised to immediately stop providing access to the building, but has instead refused. I find that the landlord has also provided sufficient evidence to satisfy me that unfettered access by “street people” on a continuous basis constitutes an unreasonable and unfair circumstance if the landlord had to wait for a 1 Month Notice to take effect. The landlord’s application for an early end to the tenancy is granted. The landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord’s application for an early end to the tenancy is granted.

The landlord is granted an order of possession.

The landlord is granted a monetary order.

These orders must be served upon the tenant. Should the tenant fail to comply with the orders, the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial 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: February 17, 2017

Residential Tenancy Branch