



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COMMUNITY BUILDERS GROUP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

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.

Both parties (1 tenant and 2 landlord representatives) attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. Tenant CC testified that he would represent his co-tenant, Tenant KB, at this hearing. The tenant confirmed that he received the landlord's Application for Dispute Resolution and initial evidence submitted with the application for this hearing. Based on the testimony of both parties at the hearing, I find that the landlord's Application for Dispute Resolution was served pursuant to sections 88 and 89 of the Act.

Preliminary Issues: Late Evidence

The tenant submitted late evidence including photographs of his residence. He testified that these photographs were the most recent photographs in evidence with respect to his rental unit and he relied on the photographs to provide proof of his efforts to improve the state and condition of his rental unit. The landlord acknowledged that they had received these six photographs days ago and that they had had an opportunity to review them. The landlord requested to comment on the photographs during the hearing but did not oppose the photographs being considered as evidence in this hearing. I will consider these photographs submitted by the tenant as evidence in this hearing.

The landlord submitted late evidence including a chemistry report referring to a substance they claim was located within the residence. The tenant acknowledged receipt of this evidence but testified that he did not understand its value and submitted

that the information in the document was dated. I will consider these documents submitted by the landlord. In the analysis section of this decision, I will consider the weight to be afforded to these documents as evidence in this hearing.

The landlord also submitted digital evidence in the form of a USB (stick) to provide photographic and video evidence of a recent incident at the tenant's rental unit. The tenant testified that he did not receive this evidence. His advocate indicated that, if he had received the evidence, the tenant would not have been able to view the evidence and that therefore the landlord's digital video evidence should not be considered. I accept the tenant's testimony that he did not receive this video evidence. Therefore, I will not consider the video submitted by the landlord for this hearing.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy early?

Background and Evidence

This tenancy began on March 5, 2014 as a month to month tenancy. The monthly rental amount of \$750.00 was payable on the sixteenth of each month. The landlord continues to hold a \$375.00 security deposit paid by the tenant at the outset of the tenancy. The landlord sought an Order of Possession to end the tenancy early.

Landlord MC testified that the tenant used to be responsible for maintenance jobs on the premises but is no longer working for the landlord. Landlord MC testified that the single room occupancy residential building that the tenant resides in is a wooden building approximately 100 years old. He testified that the tenant's rental unit is on the second floor. He testified that there are approximately 80 units in the building and several elderly tenants. He testified that there have been several incidents of unacceptable behaviour as well as complaints with respect to the tenant and his co-tenant, particularly relating to smoke originating in the rental unit.

The documentary evidence submitted by the landlord included approximately six warning letters or requests for compliance with the rules of the premises on six different dates to the tenants. These incidents included; tenants changing the locks to the rental unit without permission; verbal abuse of the staff on premises; excessive clutter causing safety hazard; food items left out in rental unit; improper use of sink (as toilet, garbage disposal or ashtray); and hanging items from the sprinkler within the rental unit. These warning letters date from April 30, 2016 to March 14, 2017. Many of the issues raised in

the warning letters are repeated in the following letters, with the addition of any new arising issues.

The landlord testified that the police and other emergency responders attended to the tenant's rental unit on March 14, 2017. At that time, after a complaint of smoke in the hallways, the fire department issued a notice of violation to Landlord CK. The notice of violation indicated the following;

- That the landlord was required to immediately provide and install the missing smoke detector and advise the occupant not to remove it for any reason;
- That the landlord was required to maintain a 24 hour fire/smoke watch until the smoke detector within the rental unit is replaced;
- That the landlord must immediately remove all propane tanks from inside the rental unit;
- That the landlord must ensure the tenant's rental unit doorway is clear and able to be opened fully;
- That the landlord must ensure that the tenant removes the items hanging from sprinkler piping; and
- That the landlord must ensure that the tenant removes all flammables and items that block access to the exterior window.

The landlords both testified that, in the following days, the tenant would not allow them into the rental unit to replace the smoke detector and that the tenant refused to comply with the other orders, like removing items from sprinkler piping and creating clear exit/access ways within the rental unit. On March 16, 2017, the landlord served the tenant with a One Month Notice to End Tenancy for Cause with an effective date of April 16, 2017 citing breach of a material term. The landlord referred to the one page tenancy agreement provided as evidence for this hearing that states that the tenant will keep his room clean and free of clutter and that the tenant will never disconnect his smoke detector. The landlord also relied on the provision in the tenancy agreement that states, the tenant will not hang clothes, bicycles or other objects from the sprinkler pipes. The landlord submits that the tenant has repeatedly failed to meet the terms of the tenancy agreement.

The landlord MC testified that four days after the previous fire related incident, on March 18, 2017, the police department, fire department and paramedics all attended to the tenant's rental unit. The landlords both testified that the paramedics had been called because the tenant had a seizure. The tenant did not dispute that the paramedics attended to the tenant's rental on Saturday, March 18, 2017. The landlord testified that

the paramedics who attended to the tenant were ultimately taken to hospital as they were overcome by fumes within the rental unit.

The landlord testified that, after the attendance of the other first responders, ultimately firemen in hazardous materials gear attended to the tenant's rental unit and discovered hydrochloric acid within the tenant's rental unit. The landlord testified that hydrochloric acid is a very strong acid that is corrosive and can cause burns as well as cause breathing difficulties as well as skin irritation and other, more severe symptoms. The landlord testified that the hydrochloric acid was not stored in a safe manner but in an open container on a counter surface within the rental unit. The landlord testified that he is very fearful that the tenant will again either have a dangerous substance in the residence and/or cause another fire, with smoke impacting the other tenants. The landlord also testified that, given the type of structure (old and wooden), it is very unsafe to continue to house a tenant who has caused the fire department to be called and issue violations on more than one occasion.

The tenant referred to his photographic evidence (6 photographs) to show that he has cleaned his rental unit. While the unit seems to have been tidied somewhat, the photographs provided by the tenant show a large amount of clutter throughout the rental unit.

Analysis

Pursuant to section 56, I am able to make an order specifying an earlier date for the end of a tenancy than would be the case had the landlord relied on a one month notice to end a tenancy for cause, only if I am satisfied that, among other matters the tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk **and** that 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.

The two landlords both provided candid and logically consistent testimony regarding the events involving the tenant, particularly the events in March 2017. Landlord MC expressed concern for the safety of the building and its residents. He and Landlord CK provided detailed descriptions of the incidents of emergency responders at the rental unit within March 2017.

The tenant indicated that he had taken steps to address the issues raised in the incident reports and the 1 Month Notice. However, his photographic evidence shows a rental unit that does not currently meet the safety standards of the landlord or of the fire

department. I accept the documentary evidence of the landlord that documents showing difficulty in addressing concerns of the tenant's use of the rental unit and the condition of the interior of his rental unit. The tenant failed to explain satisfactorily the incidents requiring the attendance of the fire department and other emergency responders in a way that contradicted or dispelled the version of events submitted by the landlord.

I find that the documentary evidence of the landlord compelling; particularly the document from the fire department outlining several action items for the tenant to meet in order to make his rental unit safe. I find that the second incident raises the level of concern of safety for both the landlord's property and the other occupants within the residential premises. I find that the landlord provided sufficient evidence of the impact on the landlords, other tenants and the building itself to support the landlord's application for an order of possession and an early end to this tenancy.

The landlord's evidence has satisfied me that the tenant has put the landlord's property (and its other occupants) at significant risk. I also find that it would be unreasonable, or unfair to the landlord and the other occupants of the residential property to wait for a notice to end the tenancy under section 47 to take effect and for any dispute of that notice to be heard. Accordingly, I order the tenancy to be at an end. 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.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) 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: April 18, 2017

Residential Tenancy Branch