



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KENSTONE LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution (the "Application") to end the tenancy early and obtain an Order of Possession.

An agent for the Landlord (the "Landlord") appeared for the hearing and provided affirmed testimony during the hearing as well as two pages of documentary evidence prior to the hearing. However, there was no appearance by the Tenant or any submission of evidence prior to the hearing. Therefore, I turned my mind to the service of documents by the Landlord for this hearing.

The Landlord testified that the Tenant was served with a copy of the Application and the Hearing Package on March 23, 2017 by registered mail to the rental unit. The Landlord provided the Canada Post tracking number into oral evidence to verify this method of service; this number is detailed on the front page of this Decision. The Canada Post website shows that the documents were received and signed for on March 28, 2017. Therefore, based on the undisputed evidence before me, I find the Tenant was served pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the "Act").

Issue(s) to be Decided

Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

The Landlord testified that this tenancy started on July 10, 2015 on a month to month basis. Rent under the tenancy agreement is payable by the Tenant in the amount of \$450.00 on the first day of each month. The Tenant paid a \$225.00 security deposit at the start of the tenancy which the Landlord still retains in trust.

The Landlord testified that on March 11, 2017, the police executed a search warrant at the rental unit. The Landlord provided a copy of an email sent to him by one of the police officers who executed the search warrant. This email states that the Tenant was apprehended on March 11, 2017 during the search in which the police recovered drugs including cocaine and fentanyl. The police officer writes that the Tenant was arrested on an unrelated warrant but released pending further investigation. The police officer writes that the quantity of drugs seized from the rental unit is consistent with drug trafficking and the Tenant is facing these charges after their investigation is complete. The police officer concludes the email noting that the continuation of the Tenant's tenancy is placing other residents, guests, and staff at risk as these drugs has led to an overdose crisis. The Landlord confirmed that the Tenant has paid rent for April 2017 and is satisfied with an Order of Possession effective for the end of April 2017.

Analysis

An early end of tenancy is an expedited and unique remedy under the Act and is only available to a landlord when the circumstances of the tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause.

In such an Application, the landlord bears the burden of proof which must be satisfied on the balance of probabilities. As a result, I have analysed the undisputed evidence of the Landlord as follows. Section 56(2) of the Act provides the circumstances in which a Landlord may apply to end the tenancy early.

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

[Reproduced as written]

Based on the evidence before me I satisfied by the Landlord's undisputed evidence that this tenancy should end early. I find the Landlord's evidence consists of independent and compelling police evidence that corroborates the Landlord's concerns that the Tenant's involvement with illegal drug activity is likely to cause a significant danger to other residents, staff members and guests, and these concerns are valid. I also find the Tenant's conduct has put the Landlord's property at significant risk. Therefore, I grant the Landlord an Order of Possession effective for April 30, 2017 at 1:00 p.m.

This order must be served to the Tenant and may then be enforced in the British Columbia Supreme Court as an order of that court. Copies of this order are attached to the Landlords' copy of this Decision. The Tenant may also be held liable for any enforcement costs incurred by the Landlord.

Conclusion

I grant the Landlord an Order of Possession to end the tenancy early on April 30, 2017. This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: April 12, 2017

Residential Tenancy Branch