



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing convened as a result of a Landlords' Application for Dispute Resolution, filed August 3, 2017, wherein the Landlords requested an early end to tenancy pursuant to section 56(1) of the *Residential Tenancy Act* as well as recovery of the filing fee.

This matter was set for hearing by telephone conference call at 10:30 a.m. on this date. Only the Landlords called into the hearing. The Landlord, A.N., testified that they served the Tenant with Notice of the Hearing and their hearing package on August 8, 2017 by registered mail. A copy of the registered mail tracking number is included on the unpublished cover page of this my Decision.

Residential Tenancy Policy Guideline 12—Service Provisions provides that service cannot be avoided by refusing or failing to retrieve registered mail:

Where a document is served by registered mail, the refusal of the party to either accept or pick up the registered mail, does not override the deemed service provision. Where the registered mail is refused or deliberately not picked up, service continues to be deemed to have occurred on the fifth day after mailing.

Pursuant to section 90 of the *Residential Tenancy Act* documents served this way are deemed served five days later; accordingly, I find the Tenant was duly served as of August 13, 2017 and I proceeded with the hearing in their absence.

Issues to be Decided

1. Should the Landlords be entitled to an early end to tenancy?
2. Should the Landlords recover the \$100.00 filing fee paid?

Background Evidence

This tenancy began on July 1, 2017 and monthly rent was payable in the amount of \$2,000.00. The Tenant paid a security deposit in the amount of \$1,000.00 which the Landlord continues to hold. Documentary evidence submitted by the Landlords confirms the rental unit was rented in a furnished state.

A.N. testified that she believes that the Tenant has vacated the rental unit; she was not able to confirm the exact date this occurred, but stated the Tenant initially left for another province during the second week of July 2017 and indicated he would return on August 7, 2017. A.N. stated that initially the Tenant left some of his belongings at the rental property although the majority have now been removed.

The Landlords also submitted that the Tenant allowed another person, K., to reside at the rental unit. Documentary evidence submitted by the Landlords confirms they gave the Tenant permission to have K. reside in the rental unit with him. A.N. stated that on August 2, 2017 K. was arrested and removed from the rental unit for mischief after consuming an unknown illegal substance. The Landlords submit that since that date K. has attended the rental unit on a few occasions and has caused damage to the rental unit during these attendances.

On August 4, 2017 the Landlord, A.N., attended the residence to discover the door frame was damaged and the door was left open. The Landlords submitted that the door frame and lock, as well as interior walls and some of the furnishings in the rental unit have also been significantly damaged.

The Landlords seek an early end to tenancy on the basis that the Tenant, and his guests, have caused extraordinary damage to the rental unit.

On July 17, 2017 the Landlords were informed the Tenant's July 2017 rent cheque was returned due to insufficient funds. On July 23, 2017 the Landlords served a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Landlords confirmed that on August 1, 2017 the Tenant sent an electronic transfer for \$2,000.00 for the July rent. The Landlords confirmed that rent was not paid for August or September 2017.

I also note that the Landlords submitted a Monetary Orders Worksheet as well as evidence relating to unpaid rent and damage to the rental unit. Notably, the Landlords failed to make a claim for monetary compensation on the Application filed August 3, 2017. Should the Landlords wish to seek a Monetary Order for such claims they must clearly note on their Application such requests.

Analysis

Section 56 of the *Act* allows a tenancy to be ended early without waiting for the effective date of a one month Notice to End Tenancy if there is evidence that the tenant(s) have breached their

obligations under the tenancy agreement or *Act* and it would be unreasonable or unfair to wait for the effective date of a one month Notice to End Tenancy.

After consideration of the foregoing, the undisputed testimony and evidence of the Landlords, I find that the Tenant has breached section 32 of the *Act* by causing damage to the rental unit and leaving the unit unlocked and unsecured.

I accept the Landlords submissions that the Tenant may have abandoned the rental unit, and may have left the unit in the care of K. who has damaged the rental unit and left it unsecured.

Based on the foregoing conclusions, I find it would be unreasonable for the Landlords to wait until the effective date of a 1 Month Notice to regain possession of their rental unit and I therefore grant their request for an early end to tenancy pursuant to section 56 of the *Act*.

Conclusion

The Landlords have been granted an Order of Possession effective **immediately after service upon the Tenant**. In the event that the Tenant does not comply with this Order it may be filed with the Province of British Columbia Supreme Court and enforced as an Order of that Court.

Having been successful in their application the Landlords are also entitled to recovery of the \$100.00 filing fee. The Landlords may retain \$100.00 of the Tenant's security deposit as payment of this amount. The balance shall be held by the Landlords until dealt with in accordance with section 38 of the *Act*.

The Landlords were cautioned during the hearing to consider sections 24 to 30 of the *Residential Tenancy Act Regulations* when dealing with the Tenant's belongings.

This decision is final and binding on the parties, except as otherwise provided under the *Act*, and 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: September 7, 2017

Residential Tenancy Branch