



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

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 the issuance of an Order of Possession pursuant to section 56; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:23 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord testified that he sent the tenant a 2 Month Notice to End Tenancy for Landlord's Use of Property (the 2 Month Notice) on September 27 or 28, 2017, by registered mail. When the tenant did not pay her October 2017 rent, he sent a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) by registered mail on or about October 13, 2017.

The landlord gave undisputed sworn testimony that he sent the tenant a copy of his dispute resolution hearing package and written and photographic evidence package by registered mail on November 3, 2017. He provided the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 88, 89 and 90 of the *Act*, I am satisfied that the tenant was deemed service with this registered mailing and these documents on November 8, 2017, five days after their mailing. The landlord testified that at the time of this registered mailing he understood that the tenant was still residing at the rental unit.

Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord testified that this tenancy for a manufactured home on a foundation is one of three rental units on this acreage property. He said that this tenant moved to this manufactured home from another of his rental units around February 1, 2017. Monthly rent is set at \$900.00, payable in advance on the first of each month. He continues to hold the tenant's \$450.00 security deposit paid on or about February 1, 2017.

Although the tenant advised him on November 4, 2017 that she was no longer living on the premises, occupants she allowed to live there remain on the rental property. The landlord understands that she still returns to the rental property from time to time but is no longer living there on a full-time basis.

The landlord applied for an early end to this tenancy, despite not having issued any 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) that would normally be issued by landlords seeking an end to a tenancy for cause.

In the landlord's written and photographic evidence, there were many references to the presence of unauthorized cats, dogs, vehicles (including a travel trailer) and sub-tenants on the rental property. He also cited multiple examples of possessions brought onto the site, which he found objectionable, as well concerns about inadequate housekeeping and maintenance of the rental unit and its surroundings.

In his application for dispute resolution, the landlord also cited the following concerns regarding the safety of the behaviours of those currently residing on the rental property with the apparent permission of the tenant:

...The tenant is sub-letting. A sub-letter was forcefully removed by police. The police employed tear-gas onsite to do this. The sub-letter has guns stored onsite according to the neighbour. They are stored illegally, hidden in the rafters- I fear I cannot go onsite to inspect for fear of my life, legitimately. The police, when I spoke to them, they are monitoring the home for both drug trafficking and for a place where stolen goods are placed...

At the hearing, the landlord gave undisputed sworn testimony that he understands that the person who was forcibly removed from the travel trailer by the police on the evening of October 26, 2017 as part of a domestic dispute, has returned to the rental property and is once again living there. The landlord testified that he is frightened to even conduct an inspection of the rental property without the accompaniment of the police, who have refused to assist him. He testified that the police told him that tear gas was required to ensure that the travel trailer was vacated, and that multiple police were stationed nearby to assist those who did remove the individual from the travel trailer. The landlord also testified that he spoke with three individuals who confirmed that they are living in a garden shed at the rear of this rental unit. In total, he maintained that at least five people are living at this rental property, designed for a two person tenancy. He testified that 50 or 60 vehicles visit the rental property each day, raising concerns that the property is being used for some type of illegal activity.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *engaged in illegal activity that 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;*
- *engaged in illegal activity that 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, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

In this case, the landlord has issued notices to end this tenancy for landlord's use of the property and for non-payment of rent. He has not issued any 1 Month Notice for cause. I find that many of the issues that the landlord finds objectionable could certainly wait until a hearing of an application to end tenancy could be conducted for the two Notices to End Tenancy he has already served or for a new 1 Month Notice could be issued.

The concerns that the landlord has raised regarding the behaviours and actions occurring on this rental property are of significantly greater concern. I find that a group of unauthorized occupants of the rental property, at least some of whose actions have led to police involvement requiring the use of tear gas, has given the landlord justifiable concerns regarding his safety and the safety of others living nearby. The tenant no longer resides on the rental property, yet occupants she allowed on the premises remain there. The concerns about weapons, about people living in garden sheds, and about the general level of activity that cannot be adequately monitored through inspections by the landlord due to safety concerns indicate to me that it would be unreasonable or unfair to the landlord and other tenants who reside on this property to wait until a notice to end tenancy for cause could take effect. For these reasons, I allow the landlord's application for an early end to tenancy and issue an Order of Possession as I find that his application meets the requirements of section 56 of the *Act* as outlined above.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$100.00 filing fee paid for this application. Although the landlord's application does not seek to retain the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$100.00 from the tenant's security deposit plus applicable interest. No interest is payable over this period.

Conclusion

I allow the landlord's application for an early end to this tenancy. 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) or any occupants on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I order the landlord to retain \$100.00 from the tenant's security deposit as a means of recovering the landlord's filing fee for this application. I order the value of the security deposit retained by the landlord to be reduced from \$450.00 to \$350.00.

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: November 27, 2017

Residential Tenancy Branch