



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET; FF

Introduction

This is the Landlord's Application for Dispute Resolution seeking an early end to tenancy and recovery of the cost of the filing fee from the Tenant.

The Landlord attended the Hearing and gave affirmed testimony. The Landlord testified that he served the Tenant with the Notice of Hearing documents by leaving the documents in the Tenant's mailbox on December 24, 2017. Based on the affirmed testimony of the Landlord, I am satisfied that the Tenant was duly served and that she is deemed by Section 90 of the Act to have received the documents on December 27, 2017.

Despite being served with the Notice of Hearing documents, the Tenant did not attend the Hearing which remained open for 35 minutes. The matter proceeded in the Tenant's absence.

Issue(s) to be Decided

Is the Landlord entitled to an Order of Possession based on the provisions of Section 56 of the Act?

Background and Evidence

The Landlord gave the following testimony:

The rental property is a house with two suites. The Tenant lives in the upper suite. This tenancy began on March 1, 2017. Monthly rent is \$1,650.00, due on the first day of each month. The Tenant is responsible for paying ½ of the utilities. The Tenant paid a security deposit in the amount of \$825.00.

The Landlord provided an Affidavit, sworn on November 1, 2017, from the occupant who lives in the basement suite of the rental property. This Affidavit attests to sexual harassment by the Tenant's brother; apparent drug dealing by the Tenant and her brother; drug use by the Tenant and her brother which causes the smell of marijuana to waft into the occupant's living space; and threats by the Tenant to cause extensive damage to the occupant's car.

The Landlord testified that the Tenant has caused water damage to the rental unit and to the suite below the rental unit while the downstairs occupant was out of town. The Landlord stated that the Tenant did not report the damage to the Landlord and that the damage was only discovered by the occupant of the basement suite after returning from out of town. The Landlord stated that the repairs were made on September 25, 2017. The Landlord stated that the Tenants have also damaged the stairwell at the rental property.

The Landlord testified that he released the downstairs occupant from her obligation under her lease. He stated that on November 8, 2017, he and the downstairs occupant signed a mutual agreement to end the tenancy and that the downstairs occupant has moved out of the rental unit. The Landlord stated that he is not going to re-rent the downstairs suite to another occupant until the Tenant is gone, in fairness to any new occupant. The Landlord stated that as a result, he is losing 1/2 of the cost of utilities, plus the \$1,250.00 a month income from the downstairs suite.

The Landlord stated that his biggest concern is the illegal activity and drug dealing that is occurring at the rental property. He stated that the neighbourhood is a family neighbourhood with young children.

Analysis

Section 56 of the Act provides:

Application for order ending tenancy early

56 (1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) 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

(b) 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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I accept the Landlord's undisputed affirmed testimony in its entirety. Based on the Landlord's testimony and the affidavit of the downstairs occupant, I find, on the balance of probabilities, that the Tenant and her brother have significantly interfered with or unreasonably disturbed the downstairs occupant. I find that it is probable that the

Tenant and her brother are smoking cannabis at the rental property and that they are probably selling cannabis from the rental unit, which has adversely affected the downstairs occupant's quiet enjoyment, security, safety and physical well-being. I accept that the Landlord is losing revenue because of the Tenant's illegal activities in the rental property. I find that it would be unreasonable or unfair to the Landlord to wait for a Notice to End Tenancy for Cause to take effect.

The Landlord's Application had merit and I find that the Landlord is entitled to recover the cost of the filing fee from the Tenant. Pursuant to the provisions of Section 72 of the Act, the Landlord may deduct \$100.00 from the security deposit.

Conclusion

The Landlord may deduct **\$100.00** from the security deposit, representing recovery of the cost of the filing fee.

The Landlord is hereby provided with an Order of Possession **effective 2 days after service of the Order upon the Tenant**. This Order may be enforced in 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: January 16, 2018

Residential Tenancy Branch