



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 Tenants.

The Landlord attended the Hearing and gave affirmed testimony. The Landlord testified that she mailed the Notice of Hearing documents and copies of her documentary evidence to each one of the Tenants, by registered mail to the rental unit, on December 22, 2017. The Landlord provided the tracking numbers for all three registered packages. Based on the affirmed testimony of the Landlord, I am satisfied that all of the Tenants were duly served. Section 90 of the Act deems service in this manner to be effective 5 days after mailing the documents.

Despite being served with the Notice of Hearing documents, the Tenant did not attend the Hearing which remained open for 20 minutes. The matter proceeded in the Tenants' 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:

This tenancy began on September 1, 2017. Monthly rent is \$2,100.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$1,000.00 on September 3, 2017.

The Landlord testified that she gave the Tenants 24 hour notice that she wanted to access the rental unit for the purposes of servicing the fireplace and chimney. When the Landlord exercised her right of access, she noticed that there was water damage on the walls of the living room, coming down from the ceiling. The Landlord stated that the damage was obvious and that Tenants had not notified the Landlord about the damage. The Landlord hired a restoration company to come in and repair the damage.

The Landlord testified that the restoration company installed a professional blower in the rental unit to dry out the walls. She stated that on or about November 30, 2017, the Tenants moved this equipment directly in front of the fireplace, which caused damage to the equipment. The Landlord provided two photographs of the damaged equipment, a copy of the invoice from the restoration company for the cost of replacing the blower, and a copy of an e-mail from the restoration company confirming that the Tenants had moved the equipment and that the equipment has been “removed from service” as a result of the damage.

The Landlord testified that the Tenants are smoking cigarettes and marijuana in the rental unit, contrary to the tenancy agreement, and that a couple of weeks before the water damage was discovered, the Landlord noticed cigarette butts and other smoking material in ashtrays around the rental property, and that the Tenants had disconnected the smoke alarms. The Landlord stated that she is very concerned because the Tenants are smoking marijuana on the property which puts them “under the influence” of intoxication and that, together with having no working smoke alarms and placing items directly in front of a fire, is a putting her property and the Tenants’ lives at real risk.

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 oral testimony and electronic evidence, I find, on the balance of probabilities, that the Tenants have seriously jeopardized a lawful right or interest of the Landlord and

put the Landlord's property at significant risk. 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 Tenants. 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 Tenants**. 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 19, 2018

Residential Tenancy Branch