



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An early end to the tenancy and an order of possession - Section 56; and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution and notice of hearing (the “Materials”) by posting the Materials on the rental unit door on January 26, 2018. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on October 1, 2017 with rent of \$2,700.00 payable on the first day of each month. Although the Tenant was required to pay a security deposit the cheque for this deposit was returned. The Tenant has paid no rent at all for the duration of the tenancy. The Tenant wanted to pay the Landlord for the rent and security deposit with a cheque in another person’s name however the Landlord refused to accept this cheque and instead provided the Tenant with the Landlord’s banking information for the Tenant to make a deposit into the Landlord’s account. The Bank informed the Landlord that the cheques used by the Tenant for the deposits to the Landlord’s account were on a different name and that they were not cleared by the Bank. The

Bank provided copies of those cheques to the Landlord and these copies are included as evidence for this dispute. The Landlord reported the matter to the police who informed the Landlord that they were aware of where the cheques came from and that fraud charges against the Tenant have been sent to the Crown for approval. On making deposits to the Landlord's account the Tenant also informed the Landlord that a greater amount than was required had been deposited and requested those amounts of \$200.00 and \$500.00 to be returned to the Landlord. Before the Landlord became aware that the cheques were no good the Landlord paid these amounts to the Tenant.

The Landlord served the Tenant with a 10 day notice to end tenancy for unpaid rent on January 8, 2018 and the Tenant informed the Landlord that this Notice had been disputed and that the Tenant would not pay any further rent until after the hearing. The Landlord assumed that today's hearing would include the hearing on the 10 day notice. The Landlord was never served with an application for dispute resolution or any notice of hearing from the Tenant. Two days after the service of the 10 day notice, water on the ceiling of the lower unit was reported. The Landlord inspected and noted that the one bedroom ceiling is almost entirely damaged by water. The Landlord inspected the upper unit and could not find the source of any leak and the Landlord believes that the Tenant purposely allowed water to leak into the lower unit.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier and obtain an order of possession where, inter alia, the tenant or a person permitted on the residential property by the tenant has:

- put the landlord's property at significant risk;
- engaged in illegal activity that, inter alia, 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 or other occupants of the residential property, to wait for a notice to end the tenancy for cause to take effect.

Based on the undisputed evidence before me, I find that the Landlord has substantiated on a balance of probabilities that the Tenant committed fraud in relation to rent payments and purposely damaged the unit after receiving the 10 day notice to end tenancy for unpaid rent.

Given the evidence of the damage and the additional evidence the Tenant's apparent deception in relation to the overpaid amounts and in relation to a dispute of the 10 day notice for unpaid rent, I am satisfied that the Tenant's behaviour is such that it would be unfair for the Landlord to wait for a one month notice to end tenancy for cause to take effect. I find that the Landlord is entitled to an order of possession. The tenancy will end and the Tenant must vacate the rental unit two (2) days after service of the Order of Possession provided to the Landlord with this decision.

As the Landlord's application has been successful I find that the Landlord is also entitled to recovery of the \$100.00 filing fee.

Conclusion

I grant an Order of Possession to the Landlord. The Tenant must be served with this **Order of Possession**. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I grant the Landlord an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: February 22, 2018

Residential Tenancy Branch