



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on March 17, 2018 (the "Application"). The Landlord applied for an order of possession and for recovery of the filing fee, pursuant to the *Residential Tenancy Act* (the "Act").

The Landlord attended the hearing in person and was accompanied by witnesses, G.B. and K.L. The Tenant attended the hearing in person. All provided affirmed testimony.

The Landlord testified the Application package was served on the Tenant by registered mail on March 24, 2018. In support, the Landlord submitted Canada Post tracking information. The Tenant testified she contacted the Residential Tenancy Branch on March 24, 2018, and was sent a copy via email. During the hearing, the Tenant acknowledged receipt of the Application package on March 24, 2018. I find the Application package was received by the Tenant on that date.

In addition, the Landlord submitted documentary evidence to the Residential Tenancy Branch on April 9, 2018. The Landlord confirmed these documents were not served on the Tenant. He submitted there would have been no point because the Tenant did not collect the Application package that was sent by registered mail. I find the Landlord did not serve the additional documentary evidence on the Tenant in accordance with the Rules of Procedure. Accordingly, I find these documents are excluded and have not been considered further.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee paid?

Background and Evidence

The Landlord submitted a copy of the signed tenancy agreement between the parties into evidence. It confirmed the tenancy began on February 1, 2018. Rent in the amount of \$1,050.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$525.00, which the Landlord holds.

The Landlord confirmed he wished to end the tenancy. The Landlord and his witnesses, G.B. and K.L., provided evidence in support of ending the tenancy, which included the testimony stating the Tenant:

- has not provided post-dated rent cheques as agreed;
- keeps two pets in the rental unit, contrary to the tenancy agreement;
- threatened the Landlord during a condition inspection on or about March 10, 2018, and would not permit him to access the rental unit;
- damaged blinds in the rental unit and has replaced them with clothing;
- damaged window screens in the rental unit;
- damaged a shower door in the rental unit;
- has left doors and windows open, creating a safety issue for other tenants;
- did not pay rent when due on April 1, 2018; and
- and/or her guests have disrupted the tenant above by causing noise, smoking marijuana, and dealing drugs in the rental unit.

The Tenant denied most of the Landlord's claims. However, she acknowledged that her pets caused some damage to the blinds, which have been replaced with curtains. The Tenant also acknowledged she did not pay rent when due on April 1, 2018. She testified it was withheld because the Landlord has not addressed her complaints about

issues with plumbing in the kitchen. In addition, the Tenant claimed that it was inappropriate for the Landlord to conduct an inspection only one month into the tenancy.

During the hearing, the Tenant acknowledged receipt of a One Month Notice to End Tenancy for Cause, dated February 9, 2018 (the "One Month Notice"). The Tenant also confirmed she did not dispute the One Month Notice by filing an application for dispute resolution.

Analysis

Based on the unchallenged and affirmed documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*.

The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*. This provision states:

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...

- (a) *The tenant or a person permitted on the residential property by the tenant had 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 landlords 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.*

[Reproduced as written.]

The Landlord and witnesses provided testimony in support of ending the tenancy, which has been summarized above. The Tenant provided a general denial of the evidence provided by the Landlord and witnesses, but acknowledged that the blinds had been damaged by her pets. She did not submit any documentary evidence. I find the evidence, taken as a whole and on a balance of probabilities, confirms the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord by making noise in the rental unit and denying the Landlord access to conduct a condition inspection. Further, I find the Tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or occupant by failing to pay rent when due and by leaving doors and windows open. In addition, I find it would be unreasonable or unfair for the Landlord to wait for a notice to end tenancy under section 47 to take effect. Accordingly, I find the Landlord is entitled to an order of possession, which will be effective two (2) days after service on the Tenant.

The Landlord is also entitled to recover the filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Finally, I note it is more likely than not that the Landlord would have been entitled to an order of possession based on the undisputed One Month Notice, pursuant to sections 47(5) and 55 of the *Act*, although it has not been necessary for me to make any findings in that regard.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of 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: April 17, 2018

Residential Tenancy Branch