



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1109530 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

The Landlord has brought this Application for Dispute Resolution (“Application”) to obtain an Early Termination of the Tenancy and an Order for Possession.

The Landlord’s representative, JG, appeared for the scheduled hearing (hereinafter referred to as “Landlord”). The Tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:15 a.m. in order to enable the Tenant to call into this teleconference hearing scheduled for 11:00 a.m.

The Landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call any witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Landlord and I were the only ones who had called into this teleconference.

I find that the notice of hearing and evidence was properly served by the Landlord in person on the Tenant on April 16, 2018. Although all evidence was taken into consideration at the hearing, only that which was relevant to the issues is considered and discussed in this decision.

Issue(s) to be Decided

Is the Landlord entitled to an Early Termination of the Tenancy and an Order for Possession due to an immediate and severe risk, pursuant to section 56 of the *Residential Tenancy Act* (“Act”)?

Background and Evidence

The Landlord did not submit a copy of the tenancy agreement but stated that the rent was set at \$1,000.00 a month, payable on the first of each month. He served a One-Month Notice to End Tenancy for Cause under section 47 due to repeated late payments of rent. The Notice was posted on the Tenant's door on March 8, deemed received on March 11, with a corrected effective date of April 30, 2018. The Landlord has not collected or received any rent for the months of April or May.

The Landlord states that to his knowledge, the Tenant has not vacated the premises. He made this Application under section 56 as an urgent application because he is uncomfortable dealing directly with the Tenant at this point, who appears to be refusing to vacate the rental unit.

Analysis

Rule 7.3 of the Residential Tenancy Branch Rules of Procedure states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply. The Applicant appeared for the hearing and was prepared to proceed, so I decided to conduct the hearing in the absence of the Tenant.

The Landlord has the burden of proving that it is entitled to an early end of the tenancy. This type of relief is only ordered in rare circumstances where it would be unreasonable or unfair for the Landlord to provide the usual One-Month Notice to End Tenancy for Cause and wait for the month to expire. The circumstances which warrant an early end to tenancy are stated in section 56 of the Act:

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. [bolding added]

I find that the Landlord has failed to provide sufficient evidence to establish any cause significant enough to warrant an early end to the tenancy under section 56, and that this Application must be dismissed. As the Landlord has already previously served a One-Month Notice to End Tenancy, he may wish to proceed with an application to obtain an

Order for Possession under section 47, as the Tenant has not filed an application to dispute that notice within the time period required; in the alternative, the Landlord may determine whether other remedies are available for the unpaid rent under section 46 or the direct request process.

Conclusion

The Landlord's Application for an Order for Possession pursuant to section 56 is hereby dismissed without leave to re-apply on these grounds.

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: May 22, 2018

Residential Tenancy Branch