



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

ET FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The landlord was represented by their agent KA (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that he served the tenant with the application for dispute resolution dated November 21, 2018 and the evidence by registered mail sent on November 22, 2018. The landlord submitted a Canada Post tracking number into evidence. Pursuant to sections 88, 89 and 90 of the Act I find that the tenant was deemed served with the landlord's application and evidence on November 27, 2018, five days after mailing.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord presented undisputed evidence regarding the following facts. The tenant lives in the upper level of a two level house. This tenancy began in April, 2018 when the previous occupant moved out and the tenant assumed the tenancy agreement.

The landlord states that the tenant inconsistently pays the rent in the amount of \$825.00. The landlord testified that the lower unit tenant moved out in August of 2018 due to harassment from

the tenant/respondent in these proceedings and that the tenant/respondent in these proceedings is the only occupant of the two level house.

By way of evidence, the landlord has presented documents showing that the property is unkempt as evidenced by bylaw notices from the city. He also provided a spreadsheet to show that the rent being paid by the tenant is sporadic and that the tenant is now in arrears for unpaid rent. Lastly, the landlord has provided a copy of a news report regarding an incident on the property published on October 30, 2018 together with a photograph of the subject property from BC Assessment Authority.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.
- put the landlord's property at significant risk;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;
- engaged in illegal activity that 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;
- engaged in illegal activity that 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, the tenant 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. (emphasis added)

Orders for Possession issued under section 56 of the *Act* are reserved for the most dire or urgent of situations. The testimonial and evidentiary material presented by the landlord mostly relate to issues of late or unpaid rent and an unkempt yard; neither of which are grounds to end a tenancy in accordance with section 56.

The landlord did provide evidence of an incident at the house involving the police on October 30, 2018 however the landlord did not elaborate on the incident or provide additional testimony regarding the outcome. There was no material before me to show that this tenant was the subject of the police incident, whether charges against this tenant arose from the incident or whether there is an ongoing risk to other occupants of the residential property, the landlord or the landlord's property.

Based on the evidence before me, I find that it would not be unreasonable or unfair to wait for a notice to end the tenancy for cause under section 47 of the *Act*. In light of this finding, I dismiss the landlord's application for an early end to the tenancy without leave to reapply.

As the landlord was not successful in his application, the tenant is not responsible for the landlord's filing fee and I dismiss the landlord's application to recover it.

Conclusion

I dismiss the landlord's application. This tenancy will continue until ended in accordance with the *Act*.

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: December 17, 2018

Residential Tenancy Branch