



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROYAL LEPAGE CASCADE REALTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an early end to tenancy and obtain an order of possession, and to recover the filing fee from the tenant.

The landlord's agent attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord's agent testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on January 4, 2019. A Canada post tracking number was provided as evidence of service.

The Canada post tracking number is noted on the covering page of this decision. The Canada post history shows that on January 4, 2019, the tenant was left a notice card indicating where and when to pick up the item. On January 9, 2018, the tenant was left a final notice. On January 25, 2019, the package was returned unclaimed to the landlord.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act. Refusal or neglect to pick up the package does not override the deemed services provision of the Act.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on September 15, 2018. Rent in the amount of \$1,450.00 was payable on the first of each month. A security deposit of \$775.00 and a pet damage deposit of \$775.00 were paid by the tenant.

The landlord's agent testified that on November 23, 2018, they were conducting a bi-annual inspection of the rental unit. The agent stated that when they attended the property the tenant would not answered the door. The agent stated that they asked for police assistant to ensure they were safe, as they knew the tenant was home.

The landlord's agent testified that when they were in the rental unit conduction the inspection there were two unknown people in the rental unit. The agents stated that during the inspection the police found a sawed-off shotgun at the door and arrested the two occupants for possession of illegal weapons. The agent stated upon further inspection by the police that discovered the tenant was hiding in the unit and was arrested.

The landlord's agent testified that they have had concerns with this rental unit, as it is believed that they are dealing in drugs. The agent stated that other tenants are fearful due to illegal guns and drugs.

The landlord's agent testified that the tenant was served with a One Month Notice to End Tenancy for Cause, issued on November 27, 2018, by posting to the door. The agent stated that notice was not disputed.

The landlord seeks an order of possession.

Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or

- 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 rental unit or residential property;
- b) In addition, 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 to take effect.

I am satisfied, based on the undisputed testimony and evidence provided by the landlord's agent that the tenant engaged in illegal activity, by allowing illegal guns in the rental unit, which adversely affected the security, safety, or physical well-being of other occupants.

I am also satisfied, based on the undisputed testimony of the landlord's agent that the tenant was served with a One Month Notice to End Tenancy for Cause, on November 27, 2018, with an effective vacancy date of December 31, 2018. The tenant's right to dispute the notice has passed. I find the tenancy has legally ended, on December 31, 2018 and the tenant is now overholding the premises as an occupant. Therefore, I find it not necessary to consider 56(b) of the Act.

Based on the above finding, I find the landlord is entitled to an order of possession.

I find the landlord is entitled to an order of possession effective **two days after service on the tenant**. This order must be served on the tenant. If the tenant fails to comply with this order the landlord may file the order with the Supreme Court of British Columbia and be enforced as an order of that Court. The **tenant is cautioned** that costs of such enforcement are recoverable from the tenant.

Since the landlord was successful with their application, I find the landlord is entitled to recover the filing fee from the tenant. I authorize the landlord to retain the amount of **\$100.00** from the tenant's security deposit in full satisfaction of this award.

Conclusion

The landlord is granted an order of possession.

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 28, 2019

Residential Tenancy Branch