



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CMHA Kootenays
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

ET FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The Landlord applied for an early end to the tenancy, pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The Landlord attended the hearing and provided testimony. However, the Tenant did not appear. The Landlord stated that she personally served the Tenant with the Notice of Hearing, and evidence in person on January 15, 2019. I find the Tenant received the package on this day.

The Landlord was provided the 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.

Issue(s) to be Decided

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

The Landlord stated that the tenancy has been nothing but problems since the Tenant moved in on December 5, 2018. The Landlord stated that the Tenant was supposed to move in on January 1, 2019, but she let the Tenant move in on December 5, 2018, in order to help her flee from a dangerous situation. The Landlord stated that they have a strict no drugs policy (smoking or growing), and the Tenant has blatantly ignored this from the beginning. The Landlord also stated that Tenant has paid no rent since she moved in.

The Landlord provided many statements and many different items supporting why this particular tenant is a severe risk to the property. The Landlord stated that there has been a steady stream

of drug related activity on the premises: vehicles loading/unloading large bags and suspicious items in the early hours, foot traffic at all hours of the day, short visits by guests seeking to transact with the Tenant.

The Landlord also spoke to a couple of different inspections she did where she saw countless pots, full of dirt, laid out all over the rental unit, some of which had cannabis plants. The Landlord also located several lights hung up within a confined closet, surrounded by more pots with dirt in them. The Landlord also stated she smelled an overpowering smell of cannabis, and saw many different bongs, pipes, and torches laying around.

The witness and neighbour (adjoining unit) also stated that she saw a guest of the Tenant attempting to break into her vehicle.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; 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 under section 47 to take effect.

I have carefully considered the undisputed evidence before me and I find the Tenant's behaviour is significant and severe enough as to warrant an early end to the tenancy, pursuant to section 56 of the Act. I find, on a balance of probabilities, that there was strong evidence suggesting that the Tenant was growing cannabis. I note the Landlord saw countless pots full of dirt, and also actual cannabis plants. I also note the Tenant had lights strung up within a confined space where there were pots of dirt. I find this type of setup, whether it was for the purposes of growing drugs illegally, or not, posed a significant fire hazard to the house, and the adjoining units. The Tenant was not permitted to grow cannabis inside. I find the Tenant's actions pose an immediate and severe risk to other occupants and the Landlord. As such, I find the Landlord is entitled to an order of possession.

As the Landlord's application was successful, and pursuant to section 72 of the *Act* I grant the Landlord the recovery of the cost of the filing fee in the amount of **\$100.00. I authorize** the Landlord to retain \$100.00 from the Tenant's \$375.00 security deposit in full satisfaction of the recovery of the cost of the filing fee, which I find leaves a security deposit balance of \$275.00.

Conclusion

The Landlord has met the burden to prove the tenancy should end early.

The Landlord is granted 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.

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 7, 2019

Residential Tenancy Branch