



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFICA HOUSING ADVISORY
ASSOCIATION 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 obtains 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 posted to the door on January 15, 2019. Section 90 of the Act determines that a document served in this manner is deemed to have been served three days later. I find that the tenant has been duly served in accordance with the Act

Further, I am satisfied that the landlord sent an additional copy to the tenant by Registered mail, which was returned unclaimed by the tenant.

Issue to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The landlord's agent testified that the tenant's rent portion is determined by BC Housing. The agent stated that the tenant was served with a Two Month Notice to End Tenancy Because the Tenant Does Not Qualify for Subsidized Rental Unit (the "Notice"), issued on September 9, 2018, with an effective date of October 31, 2018.

The landlord's agent testified that at some point they believe the tenant vacated; however, the tenant gave the rental unit to unauthorized occupants.

The landlord's agent testified that they have tried to gain access to the rental unit; however, the occupants have screwed the front door shut and using the patio door to access the premises.

The landlord's agent testified that they believe the occupants are selling drugs, and using the premise to consume drugs. Filed in evidence are police reports, and photographs. 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 or a person permitted by the tenant has jeopardized the lawful right or interest of the landlord when they gave occupancy to unauthorized

occupants. These occupants have barricaded the door to the rental unit and using the premises for illegal purposes.

I find it would be unreasonable, and unfair to the landlord or other occupants of the residence, to wait for a notice to end tenancy under Section 47 of the Act to take effect.

Further, the tenant was served with the Notice, issued on September 9, 2018, with an effective date of October 31, 2018. I find the tenancy had already ended on October 31, 2018, in accordance with 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 **immediately**. 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: February 05, 2019

Residential Tenancy Branch