



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an early termination of the tenancy and an Order of Possession pursuant to section 56 of the Act, and to recover the cost of their filing fee.

The Landlord, R.S., and a witness for the Landlord, A.P. ("Witness"), appeared at the teleconference hearing and gave affirmed testimony. No one attended for the Tenants. The teleconference phone line remained open for 20 minutes and was monitored throughout this time. The only people to call into the hearing besides me were the Landlord and the Witness, who indicated that they were ready to proceed. I have also confirmed that the teleconference codes provided to the Parties were correct and that the only people on the call, besides me, were the Landlord and the Witness.

The Landlord said in the hearing that he served the Tenants with the Application and documentary evidence by posting them on the rental unit door on June 12, 2019. The Landlord submitted photographs of these documents posted to the rental unit door. As a result of this evidence and pursuant to section 90 of the Act, I find that the Tenants were deemed served with the Application and documentary evidence on June 15, 2019.

I explained the hearing process to the Landlord and the Witness and gave them an opportunity to ask questions about the hearing process. During the hearing the Landlord and the Witness were given the opportunity to provide their evidence orally and respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary and Procedural Matters

The Landlord provided his email address at the outset of the hearing and confirmed his understanding that the decision would be emailed to the Landlords and mailed to the Tenants, with any orders sent to the appropriate Party.

Issue(s) to be Decided

- Are the Landlords entitled to an order of possession based on the early termination of the tenancy in accordance with section 56 of the Act?
- Are the Landlords entitled to recovery of the \$100.00 Application filing fee?

Background and Evidence

The Landlord submitted tenancy agreement signed by the Parties. The Landlord confirmed the following details of the tenancy. The fixed term tenancy began on July 1, 2018, running to November 30, 2018, with a monthly rent of \$1,250.00, due on the first day of each month. The tenancy agreement states that the Tenants were required to move out by November 30, 2018; however, the Landlord did not explain why the Tenants remained in the rental unit beyond this date. The Landlord confirmed that the Tenants paid the Landlord a security deposit of \$625.00, and no pet damage deposit.

In the hearing, the Landlord said that the reason he seeks an early termination of the tenancy and an order of possession is because the Tenants 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. The Landlord said the Tenants deal drugs out of the rental unit, as evidenced by strangers to the residential property arriving five to six times a day and staying for three to four minutes each. The other occupants of the residential property have had to call the police numerous times about the people who attend the rental unit.

The Landlord uploaded information they received from the RCMP about the Tenants in the rental unit. The document states:

The file for the individuals in [rental unit address, Tenants names] have a very long history with the Prince George RCMP, the list of file #'s associated with them was over 50 files long. The list below are files directly relating to the police visits to the home at [rental unit address]

Police file #'s for [rental unit address]

[lists 14 files starting on August 26, 2018 through to May 13, 2019].

The Landlord submitted documents from the Strata Manager including the following email message she received from another tenant of the residential property:

The unit number I will be referring to in this email is [Tenants' unit number], which is on the side of my unit on the end of the block. I am going to start with general everyday concerns of various street level persons who frequent the unit 5-6 times a day that I personally witness and they spend 3-5 mins at the unit. The reason this is a complaint is they enter my front door step and ask for cigarettes from me or any visitor I have. I have had on numerous occasions street level visitors of that unit sleep on my door step as well. Everyday there is alcohol and drug use that I can see, hear and smell which comes with loud voices and crashing that I can clearly hear from any area in my unit. I have specific examples that you can confirm with the RCMP as their attendance at the unit is weekly.

January 28th 2019 – RCMP on site and executing a search warrant at [Tenants' rental unit], they arrested a young male after a loud and violent chase through the unit.

April 8th, 2019 – the residents in unit [Tenants' unit] woke me up by yelling and screaming in the back yard along with sounds of things breaking inside and outside the unit. RCMP on site at 0300 and chased a male into another unit's backyard and arrested him for assault on his mother who also lives in the residence. This was an extremely loud altercation and dangerous, as the male was highly intoxicated, violent and it poses a risk to our community.

The email contained three more such examples of police incidents involving the Tenants' rental unit.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim, in this case, the Landlords.

Section 56 of the Act establishes grounds on which a landlord may apply for dispute resolution to request an early termination of a tenancy and order of possession. In order to grant such an order, I need to be satisfied that the Tenants have done any of the following:

1. significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. put the landlord's property at significant risk;
4. has 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;
5. has engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
6. 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 tenancy under section 47 to take effect.

In this case, I find that the Landlord has established on a balance of probabilities that the Tenants have done the first five actions in the above noted list. I, therefore, find that the Landlord has met the burden of proof in this matter. I further find that it would be unreasonable and unfair for the Landlord or other occupants to wait for a one month notice to end tenancy to take effect. Accordingly, and pursuant to section 56(1) of the Act, I order that the tenancy is ended two days from the date on which the order of possession is served on the Tenants. I grant the Landlords an order of possession, which must be served on the Tenants and is effective two days after the date of service. Further, I grant the Landlord recovery of the \$100.00 Application filing fee, and I authorize the Landlord to deduct this from the Tenants' security deposit.

Conclusion

The Landlord has established on a balance of probabilities that the Tenants' behaviour warrants an early termination of the tenancy and an Order of Possession, pursuant to section 56 of the Act. Accordingly, I order that the tenancy is ended two days from the date on which the Order of Possession is served on the Tenants.

I grant the Landlord an Order of Possession, which must be served on the Tenants and which is effective two days from the date of service on the Tenants. Should the Tenants fail to comply with this Order, this Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

This decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: June 25, 2019

Residential Tenancy Branch