



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1103009 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

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

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

The three tenants did not attend this hearing, which lasted approximately 20 minutes. The landlord's agent ("landlord") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The landlord confirmed that she was the shareholder and property manager for the landlord company named in this application and that she had permission to speak on its behalf at this hearing.

The landlord confirmed that the three tenants were each served with the landlord's application for dispute resolution hearing package on June 26, 2019, by way of registered mail. The landlord provided three Canada Post receipts and tracking numbers with this application. The landlord confirmed the three tracking numbers verbally during the hearing. In accordance with sections 89 and 90 of the *Act*, I find that all three tenants was deemed served with the landlord's application on July 1, 2019, five days after their registered mailings.

Issues to be Decided

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

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

Background and Evidence

The landlord testified regarding the following facts. This tenancy began on March 1, 2019 for a fixed term ending on February 28, 2020. Monthly rent in the amount of \$2,050.00 is payable on the first day of each month. A security deposit of \$1,025.00 and a pet damage deposit of \$1,025.00 were paid by the tenants and the landlord continues to retain both deposits. A written tenancy agreement was signed by both parties. The tenants still reside in the rental unit, although they may be in the process of moving out.

The landlord stated that the tenants have failed to pay rent for two months, their dog was defecating on the property, they were smoking in the rental unit, they were not following strata rules, they were noisy, and their mail could not be released because someone broke into their mailbox.

The landlord maintained that since May 2019, she has been receiving complaints from neighbours and the police. She claimed that the police would not tell her what the complaints were about, they just called her to verify tenancy information. She said that the SWAT team came to the rental unit and were there for two hours but she does not know why. She stated that one of the strata council members is a police officer and he accompanied her to the rental unit, where they both entered to discover occupants besides the tenants sleeping in the unit. She testified that these additional occupants were making threats to the neighbours and she produced emails, but did not go through them during the hearing to confirm who they were from or what they were about. She maintained that these occupants have been seen laying on the ground outside the unit and bleeding.

Analysis

While I have turned my mind to the documentary evidence and the testimony of the landlord, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claims and my findings are set out below.

Section 56 of the *Act* requires the landlord to show, on a balance of probabilities, that the tenancy must end earlier than the thirty days indicated on a 1 Month Notice to End Tenancy for Cause ("1 Month Notice"), due to the reasons identified in section 56(2) of the *Act* **AND** that it would be unreasonable or unfair for the landlord or other occupants to wait for a 1 Month Notice to take effect, as per section 56(2)(b).

To satisfy section 56(2)(a) of the *Act*, the landlord must show, on a balance of probabilities, that:

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:*
 - (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;*
 - (iii) put the landlord's property at significant risk;*
 - (iv) engaged in illegal activity that*
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*

The landlord did not testify about which one of the above parts of section 56 of the *Act*, she was applying under.

On a balance of probabilities and for the reasons stated below, I find that the landlord's application fails the second part of the test under section 56(2)(b) of the *Act*. I find that the landlord did not provide sufficient evidence that it would be "unreasonable" or "unfair" to wait for a 1 Month Notice to be determined.

The landlord failed to show the urgency and seriousness of this situation. She talked about complaints such as dog feces, unpaid rent, smoking, additional occupants, and strata rules. She did not produce any third party, independent witnesses to testify at this hearing, particularly when she claimed that she got a lot of information from the neighbours of the rental unit. She did not produce any police reports or police officers to testify at this hearing, despite the fact that she said that the police contacted her regarding the tenant.

Accordingly, I dismiss the landlord's application for an early end to this tenancy and an Order of Possession, without leave to reapply.

As the landlord was unsuccessful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

The landlord's entire application is dismissed without leave to reapply.

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: July 08, 2019

Residential Tenancy Branch