



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

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

- an early end to this tenancy and an order of possession pursuant to section 56;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The landlords and their counsel (the landlords) attended the hearing via conference call and provided testimony. The tenant did not attend or submit any documentary evidence. The landlords stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via posting on the rental unit door on July 16, 2019. The landlords submitted a completed proof of service document as confirmation. I accept the undisputed evidence of the landlords and find that the tenant has been sufficiently served as per section 71 of the Act. Although the tenant did not attend, I find that the tenant is deemed served as per section 90 of the Act.

Issue(s) to be Decided

Are the landlords entitled to an early end to the tenancy and an order of possession?
Are the landlords entitled to recovery of the filing fee?

Background and Evidence

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

This tenancy began on January 15, 2019 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated December 21, 2018. The monthly rent is \$1,000.00 payable on the 1st day of each month and a security deposit of \$500.00 was paid.

The landlords seek an early end to the tenancy and to obtain an order of possession. The landlords stated that the tenant “appears to be running a drug dealing operation out of basement suite.” The landlords live upstairs have attended the hospital due to feeling ill as a result of chemical odours emanating from the basement...Police , Fire and Ambulance had to attend the property on July 8 due to health issues for landlords.

The landlords provided undisputed testimony that between June 26, 2019 and July 8, 2019, the tenant was viewed coming and going from the rental unit to the front of the rental property at “odd hours” between midnight and 6am in the morning. The landlords claim that the tenant is conducting drug sales from the rental unit. The landlords also claim that the tenant had admitted to them of his drug use in the rental unit. The landlords’ claim that on July 2, 2019 the landlords detected a “chemical odor” throughout the landlord’s residence which they claim came from the tenant’s basement unit. The landlords stated that police, fire and ambulance emergency services were called and that the tenant denied entry to the rental unit to allow them to determine the cause. The landlords stated that the police would not allow them entry stating that this was not a police, fire or ambulance issue, but a residential tenancy act matter. The landlords stated that video surveillance was installed to record the listed incidents as per the submitted affidavit materials. The landlords state that there are “early morning meetings” on video in which the landlords claim that the tenant is selling drugs from the rental unit. The landlords stated that on one occasion viewing into the rental unit from a window, the landlords were able to identify a large bag of powder substance and pills. The landlords stated that it is a “reasonable inference” that the tenant is manufacturing drugs and selling them from the rental unit. The landlords stated that the “chemical odors” continue to flow from the basement unit and that the landlords and their childrens’ health are in jeopardy. The landlords (R.G.) stated that he is familiar with drug sales transactions based upon his life experience(s) and that the landlords have viewed video of the tenant selling drugs during this tenancy. The landlords confirmed that a 1 month notice dated July 2, 2019 was issued for cause and that it would be unreasonable for the landlord to wait for the effective end of tenancy date as both the landlords and their children have been negatively effected.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord's property;
 - 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
 - has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

In this case, I accept the undisputed evidence of the landlords and find on a balance of probabilities that the tenant has seriously jeopardized the health and safety of the landlord. The landlords have provided undisputed testimony that the tenant is selling drugs based from the rental unit and that the tenant is most likely manufacturing drugs from the rental unit. On this basis, I find that the landlords have established that the tenant is seriously jeopardizing the health and safety of the landlords and it would be unreasonable or unfair to wait for a 1 month notice to take effect as the landlords have provided undisputed evidence that the "chemical odor" has caused both the landlords and their children ill effects to their health. The landlords' application for an early end to the tenancy is granted. The order of possession to take effect 2 days after the tenant is served.

The landlords having been successful are also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlords are granted an early end to the tenancy and an order of possession.
The landlords are granted a monetary order for \$100.00.

These orders must be served upon the tenant. Should the tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia.

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 29, 2019

Residential Tenancy Branch