



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding M'akola Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: ET, FFL

Introduction

The landlord sought an order for early end of tenancy pursuant to section 56 of the *Residential Tenancy Act* (the "Act") and recovery of the filing fee under section 72.

On December 4, 2019, the landlord applied for dispute resolution and an expedited dispute resolution hearing was scheduled for December 30, 2019. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. Neither tenant attended.

The landlord's representative confirmed that the Notices of Dispute Resolution Proceeding package were served on each of the tenants by way of registered mail on December 4, 2019. Canada Post tracking numbers, along with a Canada Post receipt, were submitted into evidence, along with copies of Proof of Service Notice of Expedited Hearing - Dispute Resolution Proceeding for each tenant. A query of Canada Post's online registered mail tracking website indicated that, as of December 30, 2019, neither tenant had picked up the mail which included the notices.

Based on the above undisputed testimony and documentary evidence I find that the landlord served the notices of dispute resolution packages in compliance with section 89 of the Act and Rule 10.3 of the *Rules of Procedure*. Failure on the part of the tenants to retrieve the notices does not invalidate service under the Act.

I have reviewed evidence submitted that met the *Rules of Procedure* and to which I was referred but have only considered evidence relevant to the issues of this application.

Issues

1. Is the landlord entitled to an early end to the tenancy under section 56 of the Act?
2. Is the landlord entitled to recovery of the filing fee?

Background and Evidence

By way of brief background, the tenancy started on July 1, 2016. Monthly rent is \$975 and the tenants paid a security deposit of \$475. A copy of the written tenancy agreement was submitted into evidence. It should be noted that the landlord is a non-profit housing society that is focussed on providing affordable housing for families.

On December 2, 2019, the RCMP contacted the landlord as it was the legal owner of the rental unit which had just been searched by the police, pursuant to a search warrant. During the search, the police found large quantities of fentanyl and methamphetamine; there were sufficiently large quantities to support criminal charges of trafficking under the *Controlled Drugs and Substances Act*.

In addition to the drugs, the police found many firearms, some unsafely stored. Both tenants were arrested during the search. Also, due to the unsafe environment, the tenants' children (aged 14 and 12) were removed from the tenants' care.

Shortly after the landlord filed for dispute resolution, the landlord's agent spoke with the police who explained that the male tenant (who was then in custody) would likely be imprisoned for a lengthy period of time. The female tenant, who has since been released from custody, is awaiting trial.

Submitted into evidence by the landlord was a copy of a court services report which listed various drug and firearms charges for both tenants.

Finally, the landlord testified that based on her conversations with police it appears that drug trafficking had been occurring for "quite some time" out of the rental unit. The dealing of drugs – with the addition of unsafe firearm storage – is wholly incompatible with the landlord's goal of providing safe and affordable housing to families, she said.

Analysis

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 dispute, the landlord seeks to end a tenancy earlier than otherwise would be permitted, under section 56 of the Act.

Subsection 56(1) of the Act permits a landlord to make an application for dispute resolution to request an order (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47, and (b) granting the landlord an order of possession in respect of the rental unit.

In order for me to grant an order under subsection 56(1), I must be satisfied 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
 - (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 residential property, and
- (b) 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 [*landlord's notice: cause*] to take effect.

In this case, the landlord's undisputed evidence – the ongoing trafficking of what are lethal narcotics, along with the unsafe storage of firearms – establishes a clear and incontrovertible case of the tenants seriously jeopardizing the health and safety and the lawful right or interest of both the landlord and other occupants (in this case, the

children specifically and the community generally). Moreover, such illegal activity by the tenants adversely affects and is, I find, likely to adversely affect the quiet enjoyment, security, safety and physical well-being of other occupants of the residential property. In short, drugs and guns don't mix with children and families. This tenancy cannot continue.

Taking into consideration the undisputed testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlord has met the onus of proving its claim for an early end to the tenancy. I order that the tenancy is ended effective today's date.

As the landlord was successful in its application, I grant it recovery of the filing fee pursuant to section 72 of the Act. The landlord may retain \$100.00 of the tenants' security deposit, pursuant to section 38(4)(b) of the Act, in satisfaction of this claim.

Conclusion

I hereby order that the tenancy is ended effective immediately.

I hereby grant the landlord an order of possession, which must be served on the tenants and is effective (2) two days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: December 30, 2019

Residential Tenancy Branch