



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

In this dispute, the landlord sought an early termination of tenancy pursuant to section 56 of the *Residential Tenancy Act* (the “Act”), and recovery of the filing fee pursuant to section 72 of the Act.

The landlord applied for dispute resolution on December 5, 2019 and a dispute resolution hearing was held on February 4, 2020. The landlords’ wife and representative (hereafter the ‘landlord’) attended the hearing, and they were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses. The tenant did not attend.

The landlord testified that they served the Notice of Dispute Resolution Proceeding package (the “Notice”) on the tenant by way of attaching it to the door at the address at which the tenant resides, on or about December 9, 2019. The landlord’s wife and the landlord personally attached the Notice to the door. Based on the above undisputed testimony I find that the tenant was served the Notice pursuant to section 89(2)(d) of 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 to be Decided

1. Are the landlords entitled to an early termination of tenancy?
2. Are the landlords entitled to recovery of the filing fee?

Background and Evidence

The landlord testified that the tenancy started on May 1, 2018 and that monthly rent, which is due at the start of the month, is \$700.00. The tenant paid a security deposit of \$350.00, which the landlords currently hold in trust. A partial copy of the written tenancy agreement was submitted into evidence.

On September 24, 2019, the landlords received a warning letter (a copy of which was submitted into evidence) from their municipality which read, in part:

During the inspection of the residential property it was discovered that alterations were made to the residence for the purposes of a controlled substances operation.

As a result of the use of the property as a controlled substances property, hazardous conditions now exist and the resident is not permitted to be occupied until all requirements of the above-noted bylaw have been complied with.

The landlords were ultimately fined \$4,000.00 for the tenant's failure to fix the rental unit as required. In addition, the landlord testified that there was an overdose death on the property (in the garage) due to someone using illicit substances in the rental unit.

Despite the landlords attempting to discuss and resolve the matter with the tenant (and other occupants who appear to reside in the property), it has been met with little success. The landlords have been met with closed doors and occupants peering through window curtains – not to mention a proliferation of security cameras around the property – but not with any luck in the tenant attempting to work with the landlords.

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.

Section 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 section 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, based on the undisputed testimony and documentary evidence of the landlord, I find that the tenant (and potentially persons permitted on the residential property) engaged in actions that meet sections 56(1)(ii), (iii), and (iv)(A) of the Act. There is no disputing that altering a residential property for the purposes of a controlled substances operation places a landlord's property at serious risk, both from a health and safety but also from a legal perspective.

Further, I find that it would be unreasonable for the landlords to wait for a notice to end the tenancy under section 47. There has already been one drug overdose on the property, and there is no evidence that the tenant and her occupants are interested in dismantling the drug operation. This tenancy must end.

Taking into consideration all the undisputed oral testimony and documentary evidence presented before me, and applying the law to the facts, I find on a balance of probabilities that the landlords have met the onus of proving their claim for an early end

to the tenancy under section 56 of the Act. As such, I hereby order the tenancy ended immediately.

As for filing costs, and as the tenancy has now ended, the landlords are entitled to retain \$100.00 of the tenant's security deposit, pursuant to section 38(4)(b) of the Act, as recovery for the filing fee.

Conclusion

I grant the landlords' application, and order that the tenancy is ended effective immediately. I issue to the landlords, in conjunction with this decision, an order of possession, which must be served on the tenant and is effective two (2) days from the date of service. This order may be filed in, and enforced as an order of, the Supreme Court of British Columbia.

I order the landlords to retain \$100.00 of the tenant's security deposit as recovery of the filing fee.

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

Dated: February 4, 2020

Residential Tenancy Branch