



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **ET, FFL**

Introduction

This hearing dealt with an application by the landlord under the *Residential Tenancy Act* (the *Act*) for the following:

- An order for early termination of a tenancy pursuant to section 56;
- Authorization to recover the filing fee for this application pursuant to section 72.

The landlord's agent TL ("the landlord") attended the hearing and had the opportunity to call witnesses and present affirmed testimony and written evidence. The hearing process was explained, and an opportunity was given to ask questions about the hearing process.

The tenant did not attend the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional ten minutes to allow the tenant the opportunity to call. The teleconference system indicated only the landlord and I had called into the hearing. I confirmed the correct call-in number and participant code for the tenant was provided.

The landlord testified the landlord served the tenant with the Notice of Hearing and Application for Dispute Resolution by posting to the tenant's door of the unit on March 6, 2020.

The landlord provided a witnessed Proof of Service of Expedited Hearing in the RTB form. The landlord also provided photographs of the landlord posting the documents to the door of the unit.

Considering the uncontradicted testimony and supporting documents, I find the landlord served the tenant as required under the Act.

Issue(s) to be Decided

Is the landlord entitled to the following:

- An order for early termination of a tenancy pursuant to section 56;
- Authorization to recover the filing fee for this application pursuant to section

Background and Evidence

The landlord provided uncontradicted evidence as the tenant did not attend the hearing.

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

The landlord testified that the fixed term 1-year tenancy the tenancy began on December 1, 2019. The rent is \$1,650.00, and the tenant provided a security deposit at the beginning of the tenancy in the amount of \$825.00 which the landlord holds. The landlord submitted a copy of the tenancy agreement.

The landlord has applied for an early end of tenancy and an Order of Possession.

The landlord testified that on February 27, 2020, the RCMP carried out a search of the unit pursuant to a search warrant. The RCMP seized items believed to be the illicit drugs, fentanyl and cocaine. The RCMP gained entrance by breaking down the front door of the unit, thereby destroying the door and leaving the unit unsecured. The landlord submitted pictures of the unit which illustrated damage to the door and the interior of the unit as well photographs of substances and trafficking paraphernalia the landlord believed to be related to illicit drugs and trafficking.

The landlord submitted many photographs, copies of news reports relating to the search, and a copy of the search warrant.

The landlord stated that he has secured the unit by replacing the door. The landlord has grave concern that the tenant continues in occupation of the unit.

The landlord seeks an order of possession and a monetary order for reimbursement of the filing fee of \$100.00.

Analysis

While I have turned my mind to the documentary evidence and the testimony presented, not all details of the submissions and arguments are reproduced here. The principal aspects of this matter and my findings are set out below.

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 onus is on the landlord to establish on a balance of probabilities that the landlord is entitled to an order for an early end of the tenancy.

To end a tenancy early, the landlord must prove that the tenant has done something contrary to section 56 **and** that it would be unreasonable or unfair to the landlord or other occupants to wait for a notice to end tenancy for cause ("One Month Notice").

Section 56 of the Act provides as follows [**emphasis added**]:

Application for order ending tenancy early

56 (1) *A landlord may 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 [landlord's notice: cause], and*
- b. *granting the landlord an order of possession in respect of the rental unit.*

(2) *The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,*

- 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 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.**

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

The landlord relied on section 56(2)(a)(i), (iv) and (v), that is, that *the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property, the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property, and the tenant has caused extraordinary damage to the unit.*

Based on a review of the testimony and evidence, I find that the landlord has met the burden of proof on a balance of probabilities under the first section, 56(2)(a)(i) and I do not consider the other two sections.

I also find the landlord has met the burden of proof on a balance of probabilities that it would be unreasonable, or unfair to the landlord to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect. The landlord testified and I find that the unit was unsecured as the entrance was destroyed. I find the landlord has established entitlement to an order for early termination of tenancy and an Order of Possession effective immediately.

In reaching this conclusion, I have given significant weight to the testimony and documentary evidence submitted by the landlord including the photographs showing a destroyed front door of the unit. I find that the damage to the unit was significant causing the landlord to incur the expense of replacing the door to secure the unit.

The landlord impressed me as candid, well-prepared and forthright. I find the landlord's evidence credible and supported by documentary evidence. I accept the landlord's testimony and find that the landlord has met the burden of proof required.

Accordingly, I grant an order ending the tenancy and an Order of Possession directing that the tenant and all occupants deliver up peaceful possession of the unit effective two days after service on the tenant.

As the landlord has been successful in the landlord's application, I grant the landlord a monetary award of \$100.00 for reimbursement of the filing fee.

Conclusion

I grant a monetary order to the landlord in the amount of **\$100.00**.

This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order in the Provincial Court (Small Claims) and be enforced as an order of that Court.

I also grant the landlord an order of possession effective two days after service on the tenant.

This order must be served on the tenant. If the tenant fails to comply with this order, the landlord may file the order with the Supreme Court of British Columbia to be enforced as an order of that Court.

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: March 23, 2020

Residential Tenancy Branch