



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ONNI PROPERTY MANAGEMENT SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the Landlord's Application filed under the *Residential Tenancy Act*, (the "*Act*"), for an early end of tenancy pursuant to section 56 of the *Act* and to recover the cost of filing the application from the Tenant. The matter was set for a conference call.

The Landlord's Agent (the "Landlord") attended the hearing and was affirmed to be truthful in his testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified the Application for Dispute Resolution and Notice of Hearing had been posted to the front door of the rental unit on March 19, 2020. I find that the Tenant had been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

- Is the Landlord entitled to an early end of tenancy and an Order of Possession, under section 56 of the *Act*?
- Is the Landlord entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The Landlord testified that on March 5, 2020 the local fire department had contacted them, advising that they had attended the property and discovered a Clandestine Lab inside the rental unit. The Landlord testified that the local fire department, ordered that locks to the rental unit be changed and took control over the rental unit. The Landlord submitted a copy of the local fire department's Inspection – Notice of Violation into documentary evidence.

The Landlord also testified that the police had attend the rental unit, that same day, at the request of the local fire department to collect the drug paraphernalia that was found in the rental unit and to arrest the occupant of the rental unit.

The Landlord testified that he received a copy of the environment assessment report the day before these proceedings, stating that due to heavy contamination of property with hazardous materials the rental unit will remain under the control of the local fire department until remediation is completed. The Landlord testified that as of the date of this hearing he is still unable to enter the rental unit and that the unit remains under the exclusive control of the local fire department.

The Landlord submitted a copy of an order from the municipality, ordering the Landlord to repair of the rental unit under the supervision of the local fire department, into documentary evidence.

The Landlord also submitted a copy of a \$4,200.00 fine the Landlord received form the municipality due to this incident into documentary evidence.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

An application for an early end of tenancy is an exceptional measure, to be taken only when a landlord can show that it would be unreasonable or unfair for the landlord or other occupants to allow the tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution. Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to tenancy and an Order of Possession on a date that is earlier than the tenancy would end if notice to end the

tenancy were given under section 47 for a landlord's notice for cause. Section 56 states the following:

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

(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.

(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.

In order to end a tenancy early and issue an Order of Possession under section 56, I must be satisfied that the tenant has done any of the following.

- Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- Put the landlord's property at significant risk;
- Engaged in illegal activity that has caused or is likely to cause damage to the landlord's property,
- Engaged in illegal activity that 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
- Engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- Engaged in illegal activity that caused extraordinary damage to the residential property.

In this case, the Landlord has provided direct evidence from the local fire department and municipal government that the rental unit had been inspected and that the authorities had found the Tenant or another occupant operating a Clandestine Lab inside of the rental unit.

Taking into consideration the undisputed oral testimony of the Landlord and the documentary evidence that I have before me, I find that on a balance of probabilities the Tenant has themselves or allowed another occupant to engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, health, security, safety, or physical well-being of another occupant of the residential property and that the illegal activity has jeopardized a lawful right or interest of another occupant or the landlord.

I find that the Landlord has met the onus of proving their claim for an order ending the tenancy early and for an order of possession, pursuant to section 56 of the *Act*.

Therefore, I find it appropriate to end this tenancy as of the date of these proceedings and grant an Order of Possession to the Landlord pursuant to section 56 of the *Act*. I grant an Order of Possession to the Landlord effective two days after service of the

order on the Tenant. Should the Tenant fail to comply with this Order, this order may be filed in the Supreme Court and enforced as an order of that Court.

Additionally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlord has been successful in this application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this application. I grant permission to the Landlord to keep \$100.00 from the security deposit for this tenancy in full satisfaction of this award

Conclusion

I grant an **Order of Possession** to the Landlord effective **two days** after service of this Order on the Tenant. Should the Tenant fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I grant permission to the Landlord to keep **\$100.00** from the security deposit for this tenancy, in full satisfaction of the award contained in my decision.

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: April 6, 2020

Residential Tenancy Branch