



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 tenants pursuant to section 72.

The landlord, R.M. (the landlords) attended the hearing via conference call and provided undisputed affirmed testimony. The tenants did not attend or submit any documentary evidence. The landlords stated that the tenants were each served with the notice of hearing package in person on January 30, 2020. The landlords stated that the tenants were each served with the submitted documentary evidence in person and by posting the evidence on the door, except the March 26, 2020 evidence submission. The landlords stated that this package was not served to the tenants. The landlords also stated that all of the documentary evidence was also sent via facebook messenger to the tenant, M.B. I accept the undisputed affirmed testimony of the landlords and find that the tenants have been sufficiently served. Although the tenants failed to attend and participate in the hearing, I find that the tenants are deemed served as per section 90 of the Act.

During the hearing the conference call connection ended abruptly after 37 minutes. Repeated attempts to communicate with the landlords were ineffective. Although I could only partially hear the landlords, no communication was possible. After disconnecting from the conference call an attempt was made to re-enter the conference call hearing. I waited until 10:40am, but the landlords did not re-connect. As the hearing was nearing the end and I find that I had sufficient evidence presented by the landlords to render a decision and the hearing was concluded.

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 March 20, 2019 as per the submitted copy of the signed tenancy agreement. The monthly rent is \$1,900.00 payable on the last day of each month. A security deposit of \$750.00 and a pet damage deposit of \$375.00 were paid.

The landlords seek an urgent end to the tenancy as the tenants pose an immediate and severe risk to the rental property.

The landlords provided written details stating,

One tenant has been arrested for Assault with a deadly weapon against the other tenants. And has again been arrested since for breaching a court order. No heat and no hot water as a result of continued damaged to the property as the tenants are very angry with each other. Occupants in the property refuse to leave. Very Hostile situation. RCMP recommend Order of Possession. Requested police statement but earliest is Feb 3rd. 2020.

[reproduced as written]

The landlords clarified that the named tenant, D.M. gave notice to vacate the rental unit for February 1, 2020. The tenant served a letter to the landlord stating that the people she had sublet the rental to without permission were refusing to leave. This resulted in a fight where the tenant was arrested for assault and ordered not to return. A marijuana growing operation was discovered by the landlord in the rental. The landlords provided photographs of the rental before the tenancy began and the photographs of the rental unit currently which shows that 1/3 of the house being used to grow marijuana. The landlord provided over 100 photographs of the rental and pointed out 14 photographs that show a marijuana grow operation with extensive damage caused to the rental. The landlords further stated that he thinks the electricity has been bypassed as it was disconnected by the utility company and that the tenants have now somehow regained electricity. The landlord fears that further damage may be caused by the tenants.

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 affirmed testimony of the landlord that the tenants have engaged in illegal activity that has caused and is likely to cause damage to the landlord's property as shown by the submitted photographs of the marijuana growing operation in the rental. Damage is evidence based upon the photographs and I find that a further delay in waiting for a 1 month notice to take effect would be unfair to the landlord. On this basis, I grant the landlord an order of possession effective 2 days after it is served upon the tenants.

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

Conclusion

The landlords are granted an order of possession.

The landlords are granted a monetary order for \$100.00.

These orders must be served upon the tenants. Should the tenants fail to comply with these orders, these orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court and enforced as orders of those courts.

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 07, 2020

Residential Tenancy Branch