



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1074683 B.C. LTD and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FFL

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; and authorization to recover the filing fee for this application, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:41 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was served with the landlord's application for dispute resolution package and evidence on April 17, 2020 by way of registered mail. The landlord provided the tracking information in their evidentiary materials. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenant deemed served with the landlord's Application and evidence on April 22, 2020, 5 days after mailing. The tenant did not submit any written evidence for this hearing.

Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below

The landlord provided the following submissions. This month-to-month tenancy began on October 1, 2018, with monthly rent currently set at \$1,000.00, payable on the first of every month. The landlord collected a security deposit in the amount of \$500.00.

The landlord filed an application for an early end of this tenancy on an expedited basis due to the nature of the recent incidents that took place on April 9, 2020. The landlord testified that a fire broke out around 1:30 a.m., and the neighbours were able to prevent the fire from spreading. Despite the actions of the neighbours, the fire caused extensive damage to the home, and the landlord has been unable to reach the tenant.

The landlord is requesting an Order of Possession due to the extraordinary damage caused by the tenant, and also because the tenant cannot be reached. Despite the landlord's inability to contact the tenant, the landlord testified that the tenant has allowed unauthorized occupants to occupy the home. The landlord is concerned about the safety and immediate risk to the home, himself, as well as the other tenants in the neighbouring unit.

The landlord submitted photos of the unit, which shows the damage caused by the fire.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if a notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to 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 interests 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;*
- *engaged in illegal activity that 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, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

Based on the evidence and sworn testimony before me, I find that sufficient evidence has been provided to warrant an end to this tenancy for several of the reasons outlined in section 56, as outlined above. I find that the tenant has seriously jeopardized the health or safety or a lawful right or interests of the landlord and other occupants in the duplex. The landlord is seeking an Order of Possession as the landlord is concerned that the tenant's behavior poses an immediate and ongoing threat to others and the home, especially in light of the fact that other tenants live on the property, and the fact that the landlord has been unsuccessful in communicating with the tenant.

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate that "it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47" for cause to take effect. On this point, I find that the reasons cited by the landlord for circumventing the standard process for ending a tenancy for cause meet the test required to end this tenancy early as this matter pertains the immediate safety of other tenants in the adjoining half duplex.

I find that the landlord has provided sufficient evidence to support that the behaviour and actions of the tenant have caused the landlord and other tenants to become concerned about the safety of all those who reside there. The main reason for the urgent nature of this application is the immediate risk to the safety of all residents who

reside on this property, and I find that the landlord has provided sufficient evidence to support this.

Under these circumstances, I find that it would be unreasonable and unfair to the other tenants in the building and the landlord to wait for a 1 Month Notice to End Tenancy for Cause to take effect. I find that the landlord has provided sufficient evidence to warrant ending this tenancy early, and accordingly I issue a two day Order of Possession to the landlord.

As the landlord was successful in their claim, I allow the landlord to recover the \$100.00 filing fee for their application. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain \$100.00 of the tenant's security deposit in satisfaction of the monetary claim.

Conclusion

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

As the landlord was successful in their claim, I allow the landlord to recover the \$100.00 filing fee for their application. In accordance with the offsetting provisions of section 72 of the *Act*, I order the landlord to retain \$100.00 of the tenant's security deposit in satisfaction of the monetary claim.

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: May 7, 2020

Residential Tenancy Branch