



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 for Dispute Resolution (the “Application”) that was filed by the Landlord under the *Residential Tenancy Act* (the “Act”), seeking:

- An early end to the tenancy pursuant to section 56 of the *Act*; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Landlord and the Tenant, both of whom provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The Tenant acknowledged receipt of the Notice of Dispute Resolution Proceeding Package, and although the parties acknowledged that their evidence was not served on each other or submitted to the Residential Tenancy Branch (the “Branch”) in accordance with the timelines set out in the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”), ultimately they acknowledged receipt and requested that all evidence be accepted for consideration by me in the hearing. As a result, I accepted all of the documentary evidence for consideration in this matter.

I have reviewed all evidence and testimony before me; however, I refer only to the relevant facts, evidence and issues in this decision.

At the request of the parties, copies of the decision and any orders issued in their favor will be emailed to them at the email addresses provided in the Application.

Preliminary Matters

Although the parties engaged in settlement discussions during the hearing, ultimately a settlement agreement could not be reached between them. As a result, I proceeded with the hearing and rendered a decision in relation to this matter under the authority delegated to me by the Director of the Residential Tenancy Branch (the “Branch”) under Section 9.1(1) of the *Act*.

Issue(s) to be Decided

Is the Landlord entitled to an early end to the tenancy pursuant to section 56 of the *Act*?

Is the Landlord entitled to recovery of the \$100.00 filing fee pursuant to section 72 of the *Act*?

Background and Evidence

The parties agreed that the one-month fixed-term tenancy began on March 1, 2020, and that rent in the amount of \$950.00 is due on the first day of each month.

In their Application the Landlord indicated that this is an urgent application about a tenant who poses an immediate and severe risk to the rental property, other occupants or the landlord, because “I’m awaiting A Certified electricians High Risk assessment on the property by April 30/2020”

The Landlord stated that as a result of a report made by the Tenant to Technical Safety BC, the rental unit must now be vacated so that major electrical work can commence to bring the rental unit and property up to code. The Landlord stated that there are significant code violations, that an investigation is currently underway by Technical Safety BC and that they have already been fined as a result of the investigation and the electrical code violations. The Landlord stated that as a result of the electrical issues, their insurance is now void until the repairs are completed and the electrical is brought up to code, and that the property is at a very high risk for fire due to the electrical issues and the presence of animal urine in the vicinity of electrical wires, as the rental unit is co-located with a barn. The Landlord stated that they spoke with the inspector last Friday, and that a work permit has been taken out to do the electrical work, but that work cannot commence until the Tenant vacates the rental unit due to the extensive nature of the work required and the necessity to open numerous walls, including exterior walls.

In support of this testimony the Landlord provided a 1 page letter from an electrical contractor stating that the wiring in the barn and other buildings on the property is unsafe, that there are multiple code violations, some potential fire and shock hazards, and a lack of wired fire alarms. In their letter the contractor also stated that they will need to access the suites to complete repairs and that drywall will need to be removed in “some areas”. The Landlord also submitted an Electrical Certificate of Inspection from Technical Safety BC outlining the electrical code violations found to-date, and requiring

the Landlord to hire a licensed electrical contractor to obtain an electrical installation permit, perform a safety check, correct any non-compliance, and submit a request for an inspection by Technical Safety BC.

The Landlord stated that the inspector advised them that if the rental unit is not vacated and the work does not proceed immediately, they will be forced to cut power to the rental unit. The Landlord stated that they believe this constitutes grounds to end the tenancy pursuant to section 56 of the *Act* as the Tenant's complaint to Technical Safety BC is the reason, they are facing the electrical repairs and fines, and that the Tenant should have reported the issues to them instead.

The Tenant stated that shortly after they moved in, they began experiencing significant and frequent electrical surges, which they reported to the Landlord on two occasions, without resolution. The Tenant stated that they were worried for their safety and the safety of numerous other occupants on the residential property and reported the electrical issues to the appropriate authority. The Tenant stated that although the Landlord is blaming them for needing to repair the electrical issues and facing fines, the issues pre-dated their tenancy. As a result, the Tenant stated that it is actually the Landlord who has placed them, their property, and the other occupants of the residential property at significant risk by failing to maintain the property, obtain permits, and ensure electrical work was to code, not them. As a result, the Tenant argued that the Landlord has no grounds to end the tenancy under section 56 of the *Act*.

Analysis

Section 56 of the *Act* states that a landlord may end a tenancy under section 56 only if one of the following grounds applies:

- 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 or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk;
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;

- The tenant or a person permitted on the residential property by the tenant has 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;
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Although the Landlord argued that the Tenant poses an immediate and severe risk to the rental property, other occupants or the landlord, because they reported the electrical code violations on the property to the appropriate authority, I do not agree. Section 32 (1) of the *Act* clearly states that a landlord must provide and maintain the residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant. Landlords cannot avoid their obligations to repair and maintain rental property under the *Act*, knowingly or otherwise, and then argue that tenants who exercise their lawful rights and report them for breaching these obligations pose an immediate and severe risk to the rental property, other occupants or the landlord, for having reported the landlord's non-compliance. As a result, I dismiss the Landlord's Application pursuant to section 56 of the *Act* seeking to end the tenancy because the Tenant reported electrical code violations on the property, the Landlord is required to complete necessary repairs as a result of these violations, and/or because the Landlord faces a lack of property insurance, fines or other financial hardships or consequences as a result of these electrical code violations, without leave to reapply.

Although Ministerial Order 89/2020 has temporarily allowed landlords, on applications under section 56 (1) of the *Act*, to be granted possession of a rental unit if the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority, including orders made by the Provincial Health Officer or under the *Emergency Program Act*, the Landlord has not submitted any documentary evidence to satisfy me that a federal, British Columbia, regional or municipal government authority has ordered that the rental unit be vacated. Although I am satisfied by the testimony of the parties and the documentary evidence before me that the Landlord is required to hire a licensed electrical contractor to obtain an electrical installation permit, perform a safety check, correct any non-compliance, and submit a request for an inspection by Technical Safety BC, and that drywall in "some areas" will

need to be removed to necessitate these repairs, I am not satisfied that the rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority, including orders made by the Provincial Health Officer or under the *Emergency Program Act*. As a result, I am not satisfied that the Landlord has cause to end the tenancy under section 56 (1) pursuant to section 4 (1) of Ministerial Order 89/2020, and I therefore dismiss their Application on this matter with leave to reapply if they receive an order requiring the rental unit to be vacated by a federal, British Columbia, regional or municipal government authority while Ministerial Order 89/2020 section 4 (1) remains in effect.

As the Landlord's Application is dismissed, I decline to grant them recovery of the filing fee.

Conclusion

The Landlord's Application seeking to end the tenancy pursuant to section 56 of the *Act*, as written, because the Tenant reported electrical code violations on the property, the Landlord is required to complete necessary repairs as a result of these violations, and/or because the Landlord faces a lack of property insurance, fines or other financial hardships or consequences as a result of these electrical code violations, is dismissed without leave to reapply. However, the Landlord has leave to reapply under section 56 (1) pursuant to section 4 (1) of Ministerial Order 89/2020, in relation to the electrical code violations if they receive an order requiring the rental unit to be vacated by a federal, British Columbia, regional or municipal government authority while Ministerial Order 89/2020 section 4 (1) remains in effect.

Based on the above, I Order that the tenancy therefore continue in full force and effect until it is ended in accordance with the *Act*.

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 20, 2020

Residential Tenancy Branch