



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an early termination of the tenancy and an Order of Possession pursuant to section 56 of the Act, and to recover the cost of his \$100.00 Application filing fee.

The Landlord appeared at the teleconference hearing and gave affirmed testimony. No one attended for the Tenant. The teleconference phone line remained open for over 20 minutes and was monitored throughout this time. The only person to call into the hearing besides me was the Landlord, who indicated that he was ready to proceed. I have also confirmed that the teleconference codes provided to the Parties were correct and that the only person on the call, besides me, was the Landlord.

The Landlord said in the hearing that he served the Tenant with the Application and documentary evidence by posting it on the door of the rental unit on June 12, 2020. The Landlord said that he also emailed these documents to the Tenant on the same day. As a result of this evidence and pursuant to section 90 of the Act, I find that the Tenant was deemed served with the Application and documentary evidence on June 15, 2020.

I explained the hearing process to the Landlord and gave him an opportunity to ask questions about the hearing process. During the hearing the Landlord was given the opportunity to provide his evidence orally and respond to my questions. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary and Procedural Matters

The Landlord provided his email address in the Application, and he provided the

Tenant's email address in the hearing. The Landlord also confirmed his understanding that the Decision would be emailed to the Landlord, mailed to the Tenant, and that any orders would be sent to the appropriate Party.

Issue(s) to be Decided

- Is the Landlord entitled to an order of possession, based on the early termination of the tenancy in accordance with section 56 of the Act?
- Is the Landlord entitled to recovery of his \$100.00 Application filing fee?

Background and Evidence

The Landlord submitted a copy of the tenancy agreement and confirmed that the fixed term tenancy began on April 23, 2020, running until April 22, 2021, with a monthly rent of \$2,300.00, due on the first day of each month. The Landlord confirmed that the Tenant paid the Landlord a security deposit of \$1,150.00, and no pet damage deposit. The Landlord said the rental unit is an apartment in a multi-tenant building.

In the hearing, the Landlord said that he seeks an early termination of the tenancy and an order of possession, because while he inspected the rental unit with a contractor, the contractor noticed a pistol. He said they did not know if it was real or not, but they reported it to the police.

The Landlord said that the police obtained a search warrant, searched the residential property, and arrested the Tenant. The Landlord said the Tenant was released and is awaiting a court date.

The Landlord said:

Two weeks ago, I received another email from the property manager saying that the Tenant was letting homeless people into the building, which is a danger to other residents.

The Landlord also said residents have seen people coming out of the rental unit with needles in their arm, and that these people share the elevators with other tenants of the residential property.

In the email from the Property Manager, R.W., he said:

Between 8:30PM & 8:45PM on Wednesday June 11 the resident from [the rental unit] greeted a homeless person at the door as an owner was walking out – the man that came in had all his belongings and was sitting out in front of the lobby window waiting to be let in. The homeless man seated outside turned around and saw the resident from [the rental unit] and stated ‘oh there’s the guy I’m waiting for to be let in by.’

. . .

We don’t know what he’s doing in the unit, we can’t see. . . it’s pretty obvious evidence that there’s drug dealing; there’s a contractor doing repairs inside and he saw needles and blood.

The Landlord said:

We don’t know what he’s doing in the unit, we can’t see. . . it’s pretty obvious from the evidence that there’s drug dealing. There’s a contractor doing repairs inside and he saw needles and blood.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

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 his case is on the person making the claim, in this case, the Landlord.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, in the case of a Landlord's application, that the Tenant or a person permitted on the residential property by 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,
- 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, **and**,
- 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 to take effect.

While I find it unreasonable to characterize homeless people as inherently dangerous, I find that the evidence before me in this case indicates that it is more likely than not that the Tenant is involved in drug dealing. This is likely, given the evidence of a contractors having witnessed a gun, needles and blood in the rental unit, as well as the evidence of person(s) exiting the rental unit with a needle sticking in their arm(s).

In this case, I find that the Landlord has established on a balance of probabilities that the first five above noted points accurately describe how the Tenant's behaviour in the rental unit has affected the safety of other occupants, and the security of the residential property, itself. I, therefore, find on a balance of probabilities that the Landlord has met the burden of proof in this matter. I further find that it would be unreasonable and unfair for the Landlord and other occupants of the residential property to wait for a one month notice to end tenancy to take effect.

Accordingly, and pursuant to section 56(1) of the Act, I Order that the tenancy is ended two days from the date on which the Order of Possession is served on the Tenant. I grant the Landlord an Order of Possession, which must be served on the Tenant, and which is effective two days after the date of service.

Conclusion

The Landlord has established on a balance of probabilities that the Tenant's behaviour warrants an early termination of the tenancy and an Order of Possession, pursuant to section 56 of the Act. Accordingly, I Order that the tenancy is ended two days from the date on which the Order of Possession is served on the Tenant.

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

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: June 30, 2020

Residential Tenancy Branch