



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 the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early termination of tenancy and Order of Possession, pursuant to section 56; and
- authorization to recover the filing fee from the tenant, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:11 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord and his agent attended the hearing and were given a full opportunity to be heard, to present affirmed 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. I also confirmed from the teleconference system that the landlord, his agent and I were the only ones who had called into this teleconference.

The landlord's agent testified that the tenant was served with the landlord's application for dispute resolution via registered mail on June 6, 2020. The Canada Post tracking number was provided in the hearing and is located on the cover page of this decision. I looked up the tracking number on the Canada Post website. The website confirmed the tenant received the landlord's application for dispute resolution on June 9, 2020. I find that the tenant was served in accordance with section 89 of the *Act*.

Issues to be Decided

1. Is the landlord entitled to an early termination of tenancy and Order of Possession, pursuant to section 56 of the *Act*?
2. Is the landlord entitled to recover the filing fee from the tenant, pursuant to section 72 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord and his agent, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord provided the following undisputed testimony. This tenancy began on April 1, 2014 and is currently ongoing. Monthly rent in the amount of \$1,800.00 is payable on the first day of each month. A security deposit of \$800.00 was paid by the tenant to the landlord.

The landlord testified that the tenant has mental health problems and intentionally set two fires inside the subject rental property on June 2, 2020. The landlord testified that one fire was set in the living room and one fire was set in the kitchen. The landlord testified that the police and the fire department attended at the subject rental property and were able to put out the fires.

The landlord entered into evidence photographs of the kitchen and living room showing burnt areas. The landlord entered into evidence a fire department liability release which states in part:

- June 2, 2020
- Extinguish small fire
- Responded for a structure fire at [subject rental property]. We discovered a small fire in the home. We extinguished and ventilated the building.

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 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.

An early end of tenancy is an expedited and unusual remedy under the *Act* and is only available to the landlord when the circumstances of the tenancy are such that it is unreasonable for a landlord to wait for the effective date of a notice to end tenancy to take effect, such as a notice given under Section 47 of the *Act* for cause. At the dispute resolution hearing, the landlord must provide convincing evidence that justifies not giving full notice.

Based on the undisputed testimony of the landlord and his agent and the landlord's documentary evidence, I find that the tenant set two small fires inside the subject rental property. I find that the fires put the landlord's property at significant risk. I find that it would be unreasonable and unfair to the landlord to wait for a notice to end tenancy under section 47 of the *Act*, because the tenant might set more fires in that period of time, causing significant loss to the landlord and putting the tenant's neighbours at risk. I therefore find that the landlord is entitled to an Order of Possession, pursuant to section 56 of the *Act*.

As the landlord was successful in his application for dispute resolution, I find that he is entitled to recover the \$100.00 filing fee from the tenant, pursuant to section 72 of the *Act*.

Section 72(2) of the *Act* states that if the director orders a tenant to make a payment to the landlord, the amount may be deducted from any security deposit or pet damage deposit due to the tenant. I find that the landlord is entitled to retain \$100.00 from the tenant's security deposit.

Conclusion

Pursuant to section 56 of the *Act*, I grant an Order of Possession to the landlord effective **two days after service 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.

The landlord is entitled to retain \$100.00 from the tenant's security deposit.

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: June 18, 2020

Residential Tenancy Branch