



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FOOTHILLS MANOR
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution made on June 9, 2020 (the "Application"). The Landlord applied for an order of possession pursuant to section 56 of the *Residential Tenancy Act* (the "Act") and to recover the filing fee.

The Landlord was represented at the hearing by T.O., an agent. The Tenant attended the hearing on her own behalf. Both T.O. and the Tenant provided affirmed testimony.

The Landlord testified the Notice of Dispute Resolution Proceeding package and evidence were served on the Tenant in person. The Tenant acknowledged receipt. No issues were raised with respect to service of these documents during the hearing. The parties were represented or were in attendance and were prepared to proceed. Therefore, pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*. The Tenant did not submit documentary evidence in response to the Application.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

The parties agreed the tenancy began on October 28, 2018. Rent in the amount of \$800.00 per month is due on the first day of each month. The Tenant paid a security deposit in the amount of \$400.00 which the Landlord holds.

The Landlord wishes to end the tenancy. T.O. testified that on two occasions – on or about May 15 and June 9, 2020 – the Tenant fell asleep in her bathtub resulting in flooding in her unit and damage in two units below. A video depicting one of the units below was submitted into evidence. T.O. testified further that one of the tenants below had to be housed in a hotel for a week at the Landlord's expense. Indeed, T.O. testified the Landlord has incurred approximately \$10,000.00 in costs as a result of the floods, almost as much as the amount of rent collected. An invoice for repairs in the amount of \$3,553.29 was submitted in support.

In reply, the Tenant acknowledged that she fell asleep in the bathtub on both occasions but that the flooding was an accident. The Tenant did not otherwise dispute the testimony of T.O. The Tenant testified she is looking for alternate accommodation.

Analysis

Based on the documentary evidence and affirmed oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied...

- (a) The tenant or a person permitted on the residential property by the tenant has done any of the following:*
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*

- (iii) *put the landlords property at significant risk;*
 - (iv) *engaged in illegal activity that*
 - (A) *has caused or is likely to cause damage to the landlord's property,*
 - (B) *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*
 - (C) *has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
 - (v) *caused extraordinary damage to the residential property, and*
- (b) *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 [landlord's notice: cause] to take effect.*

[Reproduced as written.]

In this case, I find that the flooding was caused by the Tenant. Further, I find that the damage caused, and the costs associated with repairing damage caused by the flooding, resulted in a significant interference with or unreasonable disturbance of another occupant. I also find that the Tenant, by her negligence, caused extraordinary damage to the residential property. Further, in light of the Landlord's losses and the Tenant's admission that the floods were caused when she fell asleep in the bathtub, I find it would be unreasonable or unfair to the Landlord to wait for a notice to end the tenancy under section 47 of the Act.

I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after service on the Tenant. In addition, having been successful, I find the Landlord is entitled to recover the filing fee paid to make the Application, which I order may be deducted from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective two (2) days after service on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

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: July 9, 2020

Residential Tenancy Branch