



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On July 11, 2020, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing; however, the Tenants did not attend the 27-minute hearing. All in attendance provided a solemn affirmation.

She advised that each Tenant was served a Notice of Hearing and evidence package, including a USB with video evidence, by registered mail on July 15, 2020 (the registered mail tracking numbers are listed on the first page of this Decision). The tracking history indicated that these packages were delivered on July 19, 2020. She stated that she did not check to see if the Tenants could view this digital video evidence. She also advised that she served late evidence to the Tenants by posting it to their door on July 28, 2020 with a witness. She stated that the female Tenant opened the door, took off this package, and threw it into the garbage.

Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenants were served the Notice of Hearing package and all of the Landlord’s documentary evidence. However, as the Landlord did not confirm if the Tenants could view the digital video evidence prior to serving it, pursuant to Rule 3.10.5 of the Rules of Procedure, I have excluded this digital evidence and will not consider it when rendering this Decision. The Landlord was permitted to provide testimony with respect to the contents of these videos, however.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an early end to this tenancy and an Order of Possession?
- Is the Landlord entitled to recover the filing fee for this Application from the Tenants?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord advised that the tenancy originally started on February 1, 2019 but the most current tenancy agreement was signed on July 1, 2020. Rent is currently established at \$2,000.00 per month and is due on the first day of each month. A security deposit of \$550.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

She advised that there have been multiple complaints from the neighbours regarding the Tenants' fighting and use of foul language. She stated that the Tenants have broken doors in the bedroom and their dog has scratched the walls. She also submitted that the Tenants have broken a door screen, have damaged one of the Landlord's surveillance cameras, and have thrown another one away.

Due to incidents of domestic violence, the male Tenant was not permitted on the property; however, on July 15, 2020 he was in the rental unit and the police searched the property for him. He cut a hole in the ceiling of the attic to hide from the police. They arrested him and took him away. She also advised that the Tenants grow marijuana in one of the bedrooms and that there was a water leak from the lines to their operation. She happened to be on the property on July 25, 2020 and she stated that the leak was so significant that the female Tenant came out and advised her of this problem as it was happening. The ceiling of the kitchen needed to be cut open and the female Tenant has refused to allow the Landlord to fix this problem. The whole hardwood floor is damaged from this flood.

She referred to the pictures submitted as documentary evidence and she spoke to the content of the videos to support her position that the Tenants have significantly damaged the rental unit and that their history of behavioural issues and actions justify the reason for this Application.

Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 56 of the *Act* establishes the grounds for the Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. In order to end a tenancy early and issue an Order of Possession under Section 56, I need to be satisfied that the Tenants have 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.

When reviewing the totality of the undisputed evidence before me and the solemnly affirmed testimony of the Landlord, I find that the Tenants' behaviours and actions were likely intentional, malicious, and that they pose a danger that would fall into the categories of: seriously jeopardizing the health or safety or a lawful right or interest of the Landlord, putting the Landlord's property at significant risk, and causing extraordinary damage to the residential property.

The Landlord must also 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. Based on the consistent evidence and testimony of the Tenants' troublesome past and current behavior, I accept that the Tenants have substantially damaged the rental unit and there is likely a genuine concern for the ongoing safety of the property.

Under these circumstances described, I find that it would be unreasonable and unfair for the Landlord to wait for a One Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the Landlord has provided sufficient evidence to warrant ending this tenancy early. As such, I find that the Landlord is entitled to an Order of Possession.

As the Landlord was successful in her claims, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application. Pursuant to Sections 67 and 72 of the *Act*, I allow the Landlord to retain a portion of the security deposit in satisfaction of this debt outstanding.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenants. Should the Tenants fail to comply with this Order, this Order may be filed 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 31, 2020

Residential Tenancy Branch