



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

The landlords filed an Application for Dispute Resolution on July 24, 2020 seeking an order for an early termination of the tenancy. The matter proceeded by way of a conference call hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on September 3, 2020. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

Both parties attended the hearing. One of the tenants attended with an advocate who provided additional submissions on their behalf.

The landlords stated they served notice of this hearing in person to each of the tenants on August 12, 2020. They taped an envelope with both the notice and prepared evidence to the door of the rental unit. There were separate envelopes for each of the two tenants. A witness to this transaction provided their signature on a ‘Proof of Service’ document to attest to this.

Each tenant confirmed they received the landlords’ envelope as it was attached to the door of the rental unit on August 12, 2020. Each separately confirmed they did not prepare documentary evidence in advance for this hearing.

Issue(s) to be Decided

- Are the landlords entitled to an order of possession that ends the tenancy for cause and without notice by section 56 of the *Act*?

Background and Evidence

The landlords presented a copy of the tenancy agreement signed with one of the tenants on February 5, 2017. This is for the tenancy that started on February 15, 2017. The tenant agreed to payment of the monthly rent of \$2,000.00 on the 1st of each month. The tenant paid a security deposit of \$1,000.00. The current amount of rent at the time of the hearing is \$2,130.00.

In the hearing, the second tenant provided that they moved into the unit in March 2020. They signed a document entitled 'Notice of Tenant's Responsibilities Form K' on March 25, 2020 along with the other tenant.

The landlords apply for an immediate end to the tenancy on the basis that "there is an immediate and severe risk to the rental property, other occupants or the landlords." On their Application, they stated:

The tenants tried many ways to use power from strata common area without authorization: unplugged fire siren back-up power box, glued their extension cord to the receptacle. . . Their actions pose fire safety hazards to the property and other residents.

The landlords presented that the fire department attended twice to assess the situation and served a notice of violation. They instructed the strata on making the issue a priority.

In the hearing, the landlords also presented that the tenants manipulate the building entry to keep it unlocked, leaving free entry for non-building tenants. This also poses an immediate risk to health and safety.

The landlords served the tenants with a One Month Notice to End Tenancy for Cause (the "One Month Notice") on July 31, 2020 for the move-out date of August 31, 2020. They provided reasons on the notice. Reasons provided on that notice match what the landlords presented in this hearing; however, the focus of this hearing was whether the tenants actions are "an immediate and severe risk to the rental property, other occupants or the landlords."

The landlords provided a letter dated September 2, 2020. This details their communication with an advocate for one of the tenants. On August 20, 2020 the advocate spoke with the landlords to attempt to resolve the matter of the One Month Notice "without legal proceedings." Their proposal was for a mutual agreement to end tenancy.

The landlords replied to the advocate, making a mutual agreement to end tenancy conditional on certain terms:

- The tenants pay August and September 2020 full rent;
- The tenants will move out from the unit on September 30, 2020;
- the tenants provide “a unit entry door key and a mailbox key;
- The tenants allow a “walk-through inspection of the unit before signing Mutual Agreement to End Tenancy”.

Additionally, the landlords proposed that a term of settlement is the immediate payment of \$3,064.59 for bylaw violation fines accrued over the last couple of years. The tenant advocate advised the tenant does not have the funds for this specific term.

By the time of the hearing on September 4, 2020, the tenants did not move out of the unit, and did not pay the rent for August or September. Additionally, members of the strata brought concerns to the landlords about hazards present within the tenants' unit. The strata continues to monitor the placement of items in a common area that they state are “garbage and junk items.”

The tenants presented that they want to end the tenancy on a mutual agreement. This is with the move-out date of September 30, 2020.

The tenants also addressed missing items they state were taken by the strata. For one tenant this is two bicycles starting June 10, 2020. They state their strong suspicion that the strata removed these two items from a bike rack. This tenant mentioned they consulted with the police on the matter and filed a report. The other tenant notes missing work items, both from a common area and a designated storage space. They submitted these are missing work items, and this further aggravates their difficulty in paying rent.

The parties started a discussion on mutually agreeing to end the tenancy. The landlords, by responding on September 2, 2020, show their openness to this plan. They stated the same in the hearing. After discussion and review of the details, the landlords agreed that the terms listed in the hearing satisfy their requirements going forward.

The specific terms of the agreement are as follows:

- The final date of tenancy is September 30, 2020. This is governed by the *Act* section 44(1)(c). The tenants and landlords shall complete a Mutual Agreement to End Tenancy form (#RTB-8) to document this important agreed-upon date.
- A condition inspection meeting will occur in the morning of September 29, 2020, with both the landlords and tenants in attendance. The parties shall complete a Condition Inspection Report form (#RTB – 27) to set out observations of that meeting.
- The tenants shall pay full amounts of rent for August and September 2020. The landlords reserve the right to serve an appropriate notice to end tenancy for unpaid rent.
- The landlords shall facilitate, to the best of their ability, the return of personal items to the tenants. The tenants are encouraged to follow-up on police reports for missing items and keep an account of the dollar value of all items. The tenants are aware of

other legal remedies open to them to pursue for recovery of the items, or the value of the items, or both.

- The tenants shall return unit entry keys and mailbox keys to the landlords at the end of the tenancy.
- For the remainder of the tenancy, the tenants shall abide by the strata rules that govern the common areas, as well as individual rules in place that govern the rental unit.

This agreement does not incorporate the matter of outstanding strata fees. There are other remedies available to the landlords under the *Act* for recovery of monetary loss.

Conclusion

The landlords and the tenants have reached a settled agreement. This is in accordance with section 63 of the *Act*.

Based upon the settled agreement as outlined above, I provide the landlords with an Order of Possession for the rental unit in the event the tenants fail to vacate the rental unit by September 30, 2020 at 1 p.m. Should the tenants fail to comply with the Order, it may be filed and enforced as an Order of the Supreme Court of British Columbia.

The parties make this agreement on a voluntary basis and with the understanding of the nature of this full and final settlement of this matter.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: September 8, 2020

Residential Tenancy Branch