



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 in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An early end to the tenancy and an order of possession - Section 56;
2. An Order to recover the filing fee for this application - Section 72.

The Tenants did not attend the hearing. I accept the Landlord’s evidence that the Tenants were served with the application for dispute resolution and notice of hearing (the “Materials”) by registered mail on December 19, 2020 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenants are deemed to have received the Materials on December 24, 2020. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy under written agreement started on May 1, 2020. Rent of \$2,000.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,000.00 as a security deposit.

On November 6, 2020 the police executed a search warrant at the unit and found drugs, unregistered guns and cash. The Tenants were arrested on that date and are currently still under arrest. The Landlord served a one month notice to end tenancy for cause in relation to these matters the next day, the Tenants disputed that notice to end tenancy and the hearing on this dispute is scheduled for February 9, 2021. Since the incident on November 6, 2020 the Tenant's 16-year-old daughter has been left residing in the unit and Landlord is concerned for her safety. The Landlord states that an adult son of the Tenants and additional unknown persons are now occupying the unit with the daughter and that the drug trade is continuing as reported by neighbours who have seen constant coming and going activity at the unit. The Landlord states that the current occupants also will not respond to the Landlord despite repeated attempts by the Landlord, that the occupants refuse to answer the door, and that the Landlord has been threatened over the phone by an unknown person when it attended the unit to make an inspection. No rents have been paid since December 1, 2020.

Analysis

Section 56(2)(a)(iv) of the Act provides that 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, in the case of a landlord's application, the tenant or a person permitted on the residential property by the tenant has 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 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. Although at the hearing the Landlord was informed that their application may not be successful, after further consideration of the Landlord's evidence after the conclusion of the hearing I make the following findings and orders: Based on the Landlord's undisputed evidence of the arrest of the Tenants arising from the November 6, 2020 incident I find on a balance of probabilities that the Landlord has substantiated that the Tenants carried out an illegal activity from the rental unit. Given the undisputed evidence of the presence of

unregistered guns and illegal drugs being found in the rental unit along with the undisputed evidence of the presence of unknown occupants in the unit, the threatening behavior of the occupants towards the Landlord and the constant traffic in and out of the unit, I find that the Landlord has substantiated that the illegal activity has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of the daughter occupying the residential property. Further, I find that it would be unfair or unreasonable for the Landlord to wait for the notice to end tenancy for cause to take effect. The Landlord is therefore entitled to an immediate end to the tenancy and to an order of possession. As the Landlord has been successful with its claim for an order of possession, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee and I order the Landlord to deduct this amount from the security deposit of \$1,000.00 in full satisfaction of that claim.

Conclusion

I grant the Landlord an **Order of Possession** effective two days after service on the Tenants. Should the Tenant fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

I order the Landlord to retain \$100.00 from the security deposit of \$1,000.00 in full satisfaction of the claim.

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: January 14, 2021

Residential Tenancy Branch