



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1149632 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on January 14, 2021 (the “Application”). The Landlord applied for an order ending the tenancy early pursuant to section 56 of the *Residential Tenancy Act* (the “Act”). The Landlord also sought reimbursement for the filing fee.

The Agent for the Landlord appeared at the hearing. The Tenant appeared at the hearing. I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not. I addressed service of the hearing package and Landlord’s evidence and the Tenant confirmed receipt of these.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered the documentary evidence and all oral testimony of the parties. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an order ending the tenancy early pursuant to section 56 of the *Act*?
2. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

A written tenancy agreement was submitted and the parties agreed it is accurate. The tenancy started September 01, 2020 and the agreement states that the tenancy continues on a periodic basis of one year.

The Landlord submitted documentary evidence. The Agent provided the following further relevant testimony and submissions.

Two tenants of the building have moved out because of the Tenant and a third tenant is considering moving out because of the Tenant. The other tenants do not feel comfortable living in the building and feel their safety is compromised because of the Tenant.

The Tenant leaves the front door to the building propped open to allow non-residents to come and go. These non-residents are using drugs in the common areas which is causing other tenants anxiety. The building is small with responsible tenants other than the Tenant.

One of the other tenants found a "crack pipe" outside the Tenant's rental unit and the Landlord has submitted an email about this.

Another tenant observed a friend of the Tenant's "smoking crack" on the front porch of the building and the Landlord submitted an email about this. The individual was also using a razor blade which they left on the front handrail of the building.

Since the Tenant moved in, needles are being located outside and inside the building including in the common laundry room. The Tenant's friends congregate in the laundry room. Either the Tenant's friends or people who come into the building because the Tenant has propped the front door open for them leave razor blades and needles in the common laundry room.

A witness to service of documents observed a needle on the Tenant's counter when they attended the rental unit. During an inspection of the rental unit, drug paraphernalia was observed in the rental unit.

The Tenant disputed the Agent's testimony.

The Tenant testified as follows. He does not leave the front door to the building open for people. Other tenants left the front door to the building open all summer and so he did not think this was a big deal. He thought he had a good relationship with the other tenants. He does not recall anyone at the inspection of the rental unit having a camera. He is not responsible for drug paraphernalia being left around the building. He keeps the rental unit building clean. In relation to the needle in the Tenant's room, this is unfortunate, is "not his addiction" and is not promoted by him. He does not like to have people in his home on heavy drugs. He does not think people are moving out of the building because of him.

The Landlord submitted the following relevant documentary evidence:

- An email from a prior tenant about the reasons they moved out including suspected drug use on the property. It mentions that this person found crack cocaine in the common area a week prior to moving. The email mentions the presence of "hard drug users" at the building.
- An email from another tenant about finding a needle in the laundry room.
- An email from another tenant about the Tenant propping the front door open.
- An email from the property manager about drug paraphernalia being found on site and the Tenant propping the front door open.
- An email from another tenant about finding a broken "crack pipe" outside the rental unit door.
- Photos of the broken "crack pipe", a razor and a needle.
- An email from another tenant about the Tenant leaving the front door open.

Analysis

Section 56 of the *Act* allows an arbitrator to end a tenancy early when two conditions are met. First, the tenant, or a person allowed on the property by the tenant, must have done one of the following:

1. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. Put the landlord's property at significant risk;

4. Engaged in illegal activity that has (a) caused or is likely to cause damage to the landlord's property (b) 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) jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
5. Caused extraordinary damage to the residential property.

Second, it must be unreasonable or unfair to require the landlord or other occupants to wait for a One Month Notice to End Tenancy for Cause pursuant to section 47 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules of Procedure, the Landlord, as applicant, has the onus to prove the circumstances meet this two-part test. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

The Agent testified that the Tenant is propping the front door to the building open for non-residents or the Tenant's friends to enter the building and that these individuals are using drugs and leaving drug paraphernalia including razors and needles in the common areas. The Tenant denied these points.

I am satisfied based on the evidence provided that it is more likely than not that the Tenant is propping the front door to the building open for non-residents or the Tenant's friends to enter the building and that these individuals are using drugs and leaving drug paraphernalia including razors and needles in the common areas. I am satisfied of this based on the testimony of the Agent, emails from other tenants, emails from the property manager and photos.

I am satisfied on a balance of probabilities that the Tenant's actions amount to significantly interfering with or unreasonably disturbing other occupants or the Landlord and seriously jeopardizing the health or safety of other occupants or the Landlord. I find this given the Tenant is allowing people into the building who are using drugs and leaving drug paraphernalia including razors and needles in the common areas.

I am satisfied on a balance of probabilities that the situation is urgent given it involves non-residents using drugs in common areas and leaving needles and razors in common areas. I am satisfied on a balance of probabilities that this is a safety issue and that it is serious enough that it would be unreasonable and unfair to the Landlord and other

tenants to require the Landlord to wait for a One Month Notice to End Tenancy for Cause pursuant to section 47 of the *Act* to take effect.

I am satisfied the Landlord has met their onus to prove the tenancy should end pursuant to section 56 of the *Act*. I issue the Landlord an Order of Possession for the rental unit which will be effective two days after service on the Tenant.

Given the Landlord was successful, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*. The Landlord is issued a Monetary Order in this amount.

Conclusion

The Landlord is issued an Order of Possession effective two days after service on the Tenant. This Order must be served on the Tenant and, if the Tenant does not comply with this Order, it may be filed and enforced in the Supreme Court as an order of that Court.

The Landlord is entitled to reimbursement for the \$100.00 filing fee. The Landlord is issued a Monetary Order in this amount. This Order must be served on the Tenant. If the Tenant fails to comply with this Order, it may be filed in the Small Claims division of the Provincial Court and enforced as an order of that court.

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: February 16, 2021

Residential Tenancy Branch