



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end of the tenancy and Order of Possession?

Is the landlord entitled to recover the filing fee from the tenants?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

This tenancy began in November 2020. The monthly rent is \$1,500.00 payable on the first day of each month. A security deposit of \$725.00 was collected and is still held by

the landlord. The rental unit is a basement suite in a detached home with the upstairs unit being occupied by a different tenant.

The landlord submits that since the tenancy started the tenants have caused significant interference and unreasonable disturbance of the other occupants of the property by causing loud noises including constant fighting, shouting, music playing, guests coming and going and congregating in the common outdoor areas of the property. The landlord says that the tenants have allowed various occupants into the rental unit as well as camping on and around the rental property. The landlord says that the number, frequency and conduct of these individuals have caused great disturbance to the other occupants of the building as well as to the neighboring properties. The landlord also submits that the tenants and their guests have brought onto the property items such as construction materials, bicycles and garbage. The landlord submitted into evidence numerous photographs and video footage of the rental property to support their testimony.

The tenants did not submit documentary evidence but gave lengthy testimony including reading out correspondence which they attributed to the landlord and others. The tenants dispute that they have invited the other occupants onto the property and claim that their work schedule necessitates they have guests over during nights.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has 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.

Based on the evidence of the parties, including their testimonies, I find that the landlord has provided sufficient evidence to show that the tenant has unreasonably disturbed the other occupants of the property and their behaviour is a source of seriously jeopardy to the health, safety and lawful rights of others.

I find that inviting multiple guests regularly onto residential property to create loud noises and occupy common areas are acts that cause unreasonable disturbance and interfere with other occupants of the property. I find that allowing numerous guests to visit and occupy property, especially in the midst of an ongoing pandemic where congregating is not advised, creates serious jeopardy to the health, safety and lawful rights of others. I am satisfied with the landlord's evidence including their testimony, video footage and photographs that the tenants have continued to congregate in the rental property and cause unreasonable levels of noise and interactions with others. I accept the evidence of the landlord that these are not irregular occurrences but part of a pattern of behaviour that has been ongoing and escalating throughout the tenancy.

I find the tenants' testimony to be of little value, their testimony consists of irrelevant complaints about the landlord, other business dealings and a claim that they are entitled to payment from the landlord for work done to the rental unit. I find their submissions not supported in documentary materials and to have little air of reality.

I find that the tenants' submissions to demonstrate that they have little awareness of how their behaviour and conduct is unacceptable or that they have negative impact on

the other occupants of the property. I find their statements show that the incidents cited by the landlord are not isolated occurrences but part of a pattern of behaviour causing disturbances that make the continuance of this tenancy unreasonable and unfair to the other occupants of the building.

Accordingly, I issue an Order of Possession to the landlord pursuant to section 56 of the *Act*.

As the landlord was successful in their application they may recover their filing fee from the tenants. In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain \$100.00 of the tenants' security deposit in satisfaction of the monetary award issued in the landlord's favour.

Conclusion

I grant an Order of Possession to the landlord effective **2 days after service on the tenants**. Should the tenants or any occupant on the premises fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

The security deposit for this tenancy is reduced by \$100.00 from \$725.00 to \$625.00.

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: February 12, 2021

Residential Tenancy Branch