



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the Landlords applied:

- to end a tenancy early, pursuant to section 56 of the Act; and
- for authorization to recover the filing fee from the Tenant, pursuant to section 72 of the Act.

One of the Landlords called into the hearing; the Tenants did not. The Landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Landlord testified they served the Notice of Dispute Resolution Proceeding and evidence on Tenant HK by registered mail sent to the rental unit on October 14, 2021. Pursuant to sections 89 and 90 of the Act, I find Tenant HK is deemed to have received these documents on October 19, 2021, five days after they were sent by registered mail.

The Landlord testified they did not have a mailing address for Tenant SK, who moved out of the rental unit in December 2020. The Landlord testified they emailed Tenant SK to request consent to serve them via email, in accordance with section 43 of the Residential Tenancy Regulation, but Tenant SK did not provide consent. The Landlord stated that their spouse also sought out Tenant SK at their known workplace, but without success. I find that Tenant SK was not served in accordance with the Act. However, the application can proceed as Tenant SK moved out of the rental unit in

December 2020, according to the Landlord's affirmed testimony, and the order of possession granted will affect all occupants, regardless if served or not.

Issues to be Decided

Is the Landlord entitled to an early end of tenancy and an order of possession?
Is the Landlord entitled to the filing fee?

Background and Evidence

The Landlord confirmed the following particulars about the tenancy. It began on October 1, 2017; rent is \$2150.00, due on the first of the month; the Tenants paid a security deposit of \$1075.00 and a pet deposit of \$500.00 which the Landlords still hold.

The Landlord provided testimony as to their reasons for ending the tenancy.

The Landlord testified that the Tenant built a barricade of pallets across the driveway after the Landlords served them with a One Month Notice to End Tenancy, dated September 17, 2021 (the One Month Notice). A photo of the barricade was submitted as evidence.

The Landlord further testified that the Tenant is hoarding belongings, to the point where, in some areas of the home, there are only narrow paths, 9 to 14 inches wide. The Landlord provided a photo documenting a 14-inch path to the back door of the home. The Landlord testified that the garage door no longer opens, and submitted as evidence a photo of the garage, piled with cardboard boxes, recycling, and other items.

The Landlord submitted interior photos into evidence showing cardboard boxes of belongings stacked to the ceiling, and cardboard boxes and bags of textiles piled against baseboard heaters. The Landlord expressed concern that with the cooler temperatures, the Tenant will be turning on the heat, creating a significant risk of fire. The Landlord further testified that due to the volume of belongings in the space, the items cannot be accessed and moved away from the heaters.

The Landlord testified that the Tenant had numerous pets contrary to the tenancy agreement, and that the Tenant admits to allowing pets to urinate throughout the house. The Tenant testified this has created a very strong odour which can be smelled from outside the unit.

The Landlord testified there now appear to be rodents in the rental unit, and submitted as evidence photos of rodent feces in the stairwell, living room, and a windowsill of the unit.

The Landlord testified the Tenant has tampered with the electrical system, and that as a result, the electricity no longer works in parts of the rental unit. The Landlord submitted as evidence a photo of an electrical outlet hanging from the wall, which they testified was damage caused by the Tenant.

Correspondence between the Landlord and the Tenant documents additional damage to the rental unit, including missing light fixtures and damage to the deck railing, which is now missing a portion, causing the remaining railing to sag. The Landlord submitted as evidence photos of the altered light fixtures and the damaged deck railing.

The Landlord testified that though they have tried to help the Tenant by providing assistance, resources, and more time to make improvements, when the Landlord inspected the unit in September 2021, its condition was much worse compared with previous inspections.

Analysis

Based on the above undisputed affirmed testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the Act establishes the grounds whereby a landlord may make an application for dispute resolution to request (1) an early end to tenancy, and (2) 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 of the Act for a landlord's notice for cause.

When seeking to end a tenancy early and obtain an order of possession under section 56, a landlord has the burden of proving that:

- there is sufficient cause to end the tenancy such as: the tenant has seriously jeopardized the health or safety or lawful right of another occupant or the landlord, or put the landlord's property at significant risk; **and**
- it would be unreasonable or unfair to the landlord or other occupants to wait for a One Month notice to end tenancy for cause under section 47 of the Act to take effect.

I accept the Landlord's testimony and documentary evidence that the Tenant has caused significant and extensive damage to the home, and that the Tenant has created an environment that is a health and safety hazard, contributed to by hoarding, storing flammable materials beside baseboard heaters, allowing pets to urinate in the home, and tampering with the rental unit's electrical system.

I accept the Landlord's testimony that when they inspected the unit in September 2021, its condition was much worse compared with previous inspections.

I find that, in accordance with section 56 of the Act, the Tenant has seriously jeopardized the health or safety or lawful right of another occupant or the Landlords, or put the Landlords' property at significant risk; and, that it would be unreasonable or unfair to the Landlords or other occupants to wait for a One Month notice to end tenancy for cause under section 47 of the Act to take effect.

I find the Landlords are entitled to an early end of tenancy and an order of possession.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlords are successful in their application, I order the Tenants to pay the \$100.00 filing fee the Landlords paid to apply for dispute resolution.

In accordance with sections 38 and 72 of the Act, I allow the Landlords to retain \$100.00 of the Tenants' security deposit in satisfaction.

Conclusion

The Landlords' application is granted.

I hereby grant the Landlords an order of possession, which must be served on the Tenants and which is effective two (2) days from the date of service. This order may be filed in, 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: November 09, 2021

Residential Tenancy Branch