



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 for this application, pursuant to section 72.

The tenants did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenants to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agent, TH ("landlord") attended the hearing and both were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord was clearly informed of the RTB Rules of Procedure Rule 6.11 which prohibits the recording of a dispute resolution hearing. The landlord confirmed that they understood.

The landlord was granted a substituted service order pursuant to section 71(1) of the Act, which allowed the landlord to serve the tenant AT by way of email as indicated in the substituted service decision. The landlord testified that AT was served with the landlord's application and evidence package by way of that email on October 26, 2021, while the tenant UT was served by posting the landlord's application and package on the door on that same date. In accordance with sections 88, 89, and 90 of the Act, I find the tenants deemed served with the materials 3 days after the email was sent, and the package was posted. The tenants did not submit any written evidence for this hearing.

Issues(s) to be Decided

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

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below

The landlord provided the following submissions. This fixed-term tenancy began on May 1, 2021, with monthly rent set at \$2,150.00, payable on the first of the month. The landlord had collected a security deposit in the amount of \$1,075.00, which the landlord still holds.

The landlord applied for an early termination of this tenancy after they were informed that the police had to attend the property to execute a search warrant for the premises in relation to a drug investigation. The landlord testified that significant damage was done, which included the broken down door. The landlord testified that the tenants have put the landlord's property and other residents in the building at significant risk with their involvement in illegal activity involving the rental unit.

The landlord included a copy of the search warrant in their evidentiary materials, which was obtained after an officer had affirmed under oath that there are reasonable grounds to believe that items associated with offences under the *Controlled Drugs and Substances Act* are located within the premises located at the rental unit and in the associated storage locker.

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 a notice to end the tenancy were given under section 47 for a landlord's notice for cause. 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 and sworn testimony before me, I find that sufficient evidence has been provided to warrant an end to this tenancy for several of the reasons outlined in section 56, as outlined above. I find that the tenant has seriously jeopardized the health or safety or a lawful right or interests of the landlord, and potentially other residents in the building. The landlord is seeking an Order of Possession as the landlord is concerned about the nature of the offences that lead to the execution of a search warrant at the premises.

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate that "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" for cause to take effect. On this point, I find that the reasons cited by the landlord for circumventing the standard process for ending a tenancy for cause meet the test required to end this tenancy early as this matter pertains the immediate safety and lawful interests of the landlord and other residents in the building.

The serious nature of offences referenced in the search warrant is quite worrisome. I note that the tenants have chosen to not appear at this hearing, nor have they provided any contrasting accounts by way of written evidence.

The main reason for the urgent nature of this application is the immediate risk to the safety and lawful interest of the landlord and other tenants and residents, and I find that

the landlord has provided sufficient evidence to support this. The landlord has already had to deal with damage to their property related to the execution of the search warrant, which highlights the potential volatility that the landlord and others in the building may face if this tenancy continues, and the potential for further damage to the property, and risk to everyone's safety.

Under these circumstances, I find that it would be unreasonable and unfair to the landlord for a 1 Month Notice to End Tenancy for Cause to take effect. For these reasons, I find that the landlord has provided sufficient evidence to warrant ending this tenancy early. I issue a two day Order of Possession to the landlord.

I allow the landlord's application to recover the \$100.00 filing fee from the tenants. Using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain \$100.00 of the security deposit in satisfaction of this monetary award.

Conclusion

I grant an Order of Possession to the landlord effective **two days after service of this Order** on the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I allow the landlord to recover the \$100.00 filing fee by allowing the landlord to retain \$100.00 from the security deposit for this tenancy.

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 15, 2021

Residential Tenancy Branch