



Dispute Resolution Services

Page: 1

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* ("Act") for:

- an early end to 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 tenant did not attend this hearing, which lasted approximately 22 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The hearing began at 9:30 a.m. and ended at 9:52 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who called into this teleconference.

The landlord confirmed that she owns the rental unit. She confirmed the rental unit address during this hearing. She provided an email address for me to send a copy of my decision to her after the hearing.

At the outset of this hearing, I informed the landlord that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules"). The landlord affirmed, under oath, that she would not record this hearing.

I explained the hearing process to the landlord. She had an opportunity to ask questions. She confirmed that she was ready to proceed with this hearing. She did not make any adjournment or accommodation requests.

This matter was filed as an expedited hearing under Rule 10 of the RTB *Rules*. The landlords filed this application on October 27, 2021 and a notice of hearing was issued by the RTB on November 2, 2021. The landlord was required to serve that notice, the application, and all other required evidence to the tenant, within one day of receiving the documents from the RTB, as per RTB *Rules* 10.2 and 10.3.

The landlord stated that the tenant was served with the landlord's application for dispute resolution hearing package on November 3, 2021, by way of posting to the tenant's rental unit door. The landlord provided a signed, witnessed proof of service for same. In accordance with RTB *Rules* 10.2 and 10.3 and sections 89 and 90 of the *Act*, I find that the tenant was deemed served with the landlord's application on November 6, 2021, three days after its posting.

Issues to be Decided

Is the landlord entitled to an early end to 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 the landlord's documentary evidence and the testimony of the landlord, not all details of the respective submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord testified regarding the following facts. This tenancy began in 2018 but a new tenancy agreement was signed by both parties, effective October 1, 2021. Monthly rent in the amount of \$950.00 is payable on the first day of each month. No security deposit was paid by the tenant. The tenant continues to reside in the rental unit. The rental unit is the basement of a house, where other occupants occupy the upper floor.

The landlord stated the following facts. The rental unit is in "bad shape." The tenant smokes "crack" and cigarettes inside the rental unit, causing smoke all over the unit. The landlord has called the police for help because the tenant has refused entry to the

rental unit. The landlord saw pipes and drugs on the table inside the rental unit. The tenant yells. The tenant caused fires inside the rental unit twice, in January and April 2021. The landlord called the fire department twice and was required to help extinguish the fire in the house. The tenant has denied entry to the rental unit and all the electricity and switches are inside her rental unit. The tenant has been smoking inside the rental unit for a long time, it affects the entire house, it affects the other occupants living in the house who have to breathe in the air, and it causes sneezing. The tenant is attacking other occupants, especially males, and visitors inside the rental unit. The tenant claims that there are demons following her and she has made it unsafe for other occupants at the rental property. The landlord previously did renovations and new painting inside the rental unit and the tenant has destroyed everything in there. The fridge and stove are bad at the rental unit and the tenant has food and dishes stacked all over the counters and the kitchen sink. The safety of the other occupants, especially one lady with high blood pressure, is in jeopardy at the rental property.

The landlord stated the following facts. The landlord has given the tenant notices to end tenancy and the tenant has not replied to them. The landlord had to spend \$200.00 cleaning the rental unit in July 2021 because the tenant clogged the toilet and kept using it, so the entire house was full of feces. The landlord took photographs of the rental unit on September 24th, 2021, from the rental unit door, because the tenant would not let the landlord inside the apartment to do an inspection. The landlord saw dirty dishes, food stuck all over the dishes, cigarettes covered by bottles, and cigarettes all over the rental unit. She saw that the stove was dirty and the tenant does not clean the rental unit. The tenant caused the fire to the stove in the rental unit, told the landlord after the fire occurred, and did not report anything to the landlord at the time that it occurred. The fire department and the police have both told the landlord that the tenant needs to leave the rental unit. The landlord wants an order of possession against the tenant. On August 1, 2021, the landlord issued a One Month Notice to End Tenancy for Cause ("1 Month Notice") to the tenant to move out at the end of August 2021, and the tenant did not comply.

Analysis

Section 56 of the *Act* requires the landlord to show, on a balance of probabilities, that the tenancy must end earlier than the thirty days indicated on a 1 Month Notice, due to the reasons identified in section 56(2) of the *Act* **AND** that it would be unreasonable or unfair for the landlord or other occupants to wait for a 1 Month Notice to take effect, as per section 56(2)(b).

To satisfy section 56(2)(a) of the Act, the landlord must show, on a balance of probabilities, that:

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:*
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
 - (iii) put the landlord's property at significant risk;*
 - (iv) engaged in illegal activity that*
 - (A) has caused or is likely to cause damage to the landlord's property,*
 - (B) 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, or*
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
 - (v) caused extraordinary damage to the residential property...*

On a balance of probabilities and for the reasons stated below, I find that the tenant seriously jeopardized the health, safety, and lawful rights and interests of the landlord and other occupants at the residential property.

I accept the affirmed undisputed testimony of the landlord. The landlord saw the condition of the rental unit on September 24, 2021 and provided photographs of same. The photographs show the deplorable condition of the rental unit, including food stuck all over dishes, dishes piled all over the kitchen counters and sink, cigarette butts all over the rental unit, including covered by bottles, and a significant amount of clutter all over the rental unit. I find that the condition of the rental unit causes serious health and safety risks for all occupants at the residential property and jeopardizes the lawful rights and interests of the landlord.

I also find that the landlord's application meets the second part of the test under section 56(2)(b) of the Act. I find that the landlord provided sufficient evidence that it would be "unreasonable" or "unfair" to wait for a 1 Month Notice to take effect.

I find that the landlord provided sufficient evidence regarding the urgency and seriousness of this situation. I accept the undisputed evidence of the landlord that the

tenant left her rental unit in a deplorable condition since January 2021, which became worse since September 2021, when she took photographs of the rental unit. I accept the undisputed evidence of the landlord that the tenant has not responded to or disputed the landlord's 1 Month Notice, the tenant has not moved out, she has not corrected the issues since the police or fire department visits, she denies entry to the landlord for inspection, and she has not responded to or disputed this application filed by the landlord on October 27, 2021. I accept the undisputed evidence of the landlord that the tenant has not communicated with the landlord, and none of the violations have been remedied by the tenant since September 2021.

Accordingly, the landlord's application for an early end to tenancy is allowed. The landlord is granted an order of possession effective two (2) days after service on the tenant.

As the landlord was successful in this application, I find that she is entitled to recover the \$100.00 filing fee from the tenant.

Conclusion

The landlord's application is allowed. I grant an Order of Possession to the landlord effective two (2) days after service on the tenant. Should the tenant or anyone 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.

I issue a monetary order in the landlord's favour in the amount of \$100.00 against the tenant. The tenant must be served with this Order as soon as possible. Should the tenant fail to comply with this Order, this Order 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 *Residential Tenancy Act*.

Dated: November 16, 2021

Residential Tenancy Branch