



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened in response to an application by the Landlord for an early end to the tenancy and an order of possession pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

Preliminary Matter

The unit was rented only by the deceased person named on the Landlord’s application for dispute resolution. The unit is being occupied by persons unknown to the Landlord who are asserting that they are also tenants of the unit. The Landlord served its application by posting it on the door of the unit on March 15, 2022. No person appeared to represent the occupants of the unit. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Section 71(2) of the Act provides that the director may order that a document not served in accordance with section 88 or 89 is sufficiently given or served for purposes of this Act. Given the undisputed evidence that unknown persons are occupying the unit I consider that these persons could not reasonably be named on the application. However, as the application clearly sets out the Landlord’s claim for an order of possession of the unit and as the Landlord served the application on the door of the unit where there are occupants asserting a tenancy, I find that these persons have been sufficiently served for the purposes of the Act.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy started on November 1, 2021. No security deposit was collected. Rent of \$2,500.00 was payable on the first day of each month. Although a written tenancy agreement with only the Respondent named as tenant was given to the Respondent for signature, no signature was provided. The Respondent passed away on January 28, 2022 and the Respondent's family removed the Respondent's belonging and returned the key to the Landlord. Persons then broke into the unit. These persons informed the police that they were tenants with the Respondent. The police refuse to remove the persons for this reason and have referred the Landlord to the Residential Tenancy Branch. The persons have continued to occupy the unit, have removed appliances from the unit, have broken the windows in the unit, and have damaged the Agent's vehicle. The police are in constant attendance at the unit for overdoses.

Analysis

Section 56(2)(a)(ii) and 56(2)(b) of the Act provides that the director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application, the tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant and it would be unreasonable, or unfair to the landlord 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. Given the Landlord's undisputed evidence that persons are occupying the unit without right, are refusing to vacate the unit, have damaged the Landlord's property, have damaged the agent's property, and have caused the police to attend the unit on several occasion due to overdoses, I find that the Landlord has substantiated that the persons occupying the unit have seriously jeopardized the

Landlord's lawful right or interest in the unit. Given the circumstances I also consider that it would be unfair for the Landlord to have to wait for a notice to end tenancy to take effect. I therefore grant the Landlord an order of possession effective two days after service of the order.

Conclusion

I grant an Order of Possession to the Landlord effective two days after service on the occupants. The occupants must be served with this **Order of Possession**. Should the occupants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia 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: April 12, 2022

Residential Tenancy Branch