



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on April 6, 2022. The Landlord applied for an order of possession pursuant to section 56 of the Residential Tenancy Act (the Act), and to recover the filing fee pursuant to section 72 of the Act.

The Landlord attended the hearing with MM, SM, and BQ. All those giving testimony provided a solemn affirmation at the beginning of the hearing. The Tenant did not attend the hearing.

On behalf of the Landlord, MM testified the Notice of Dispute Resolution Proceeding package was served on the Tenant in person on April 13, 2022, which was witnessed by DH. In the absence of evidence to the contrary, I find these documents were served on and received by the Tenant on April 13, 2022.

The Tenant did not submit documentary evidence in response to the Application.

The Landlord was given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

On behalf of the Landlord, MM confirmed the tenancy began on April 15, 2021. Rent of \$1,500.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$750.00, which the Landlord holds. A copy of an unsigned tenancy agreement was submitted into evidence.

The Landlord wishes to end the tenancy. MM testified there are numerous reasons the tenancy should end. First, MM described domestic abuse of the Tenant's girlfriend which commenced in November 2021. MM testified the Tenant's girlfriend, OH, gave the Landlord an Ending Fixed-Term Tenancy Statement dated January 6, 2022. A copy of the document was submitted into evidence. The Landlord anticipated the Tenant would also vacate the rental unit but has not.

Second, MM described the Tenant taunting the Landlord with the payment of rent. He testified the Tenant would count out the rent money in front of the Landlord and then take it away without paying rent when due.

Third, MM testified the Tenant damaged the rental unit. On March 12, 2022, the Tenant attempted to remove a piano from the rental unit by pulling it up a small flight of stairs at the entrance to the rental unit with a truck. MM also testified the Tenant cut away parts of the deck over the entry to accommodate the piano being removed. This action caused damage to the stairs, the entry door, entry light, trim, and tiles. Photographs of the damage to the rental property, and to the piano, were submitted into evidence. The Landlord also submitted an estimate for \$8,500.00 to repair the damage into evidence.

The Landlord testified that the Tenant drinks excessively, smokes in the rental unit (despite her allergies), leaves gates open, and is loud late at night. The Landlord also testified that the Tenant disconnected her television in April 2022, which cost her \$150.00 to reconnect. The Landlord testified the Tenant kicked in his bedroom door in late October or early November 2021, causing damage to the door frame.

The Landlord testified she has had to call police on two occasions due to the Tenant's behaviour and is "terrified" of what will happen when she serves him with an order of possession.

The Tenant did not attend the hearing to dispute the Landlord's evidence.

Analysis

Based on the unchallenged documentary evidence and affirmed oral testimony, and on a balance of probabilities, I find:

Section 56 of the Act permits a landlord to end a tenancy 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. The circumstances which authorize the director to make these orders are enumerated in section 56(2) of the Act, which states:

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...

- (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, and

(b) 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.

In this case, I find that the Tenant's behaviour, described above, has significantly interfered with or unreasonably disturbed the Landlord, put the Landlord's property at significant risk, and caused extraordinary damage to the residential property.

Further, I find it would be unreasonable or unfair to the Landlord to wait for a notice to end the tenancy under section 47 of the Act.

Considering the above, I find the Landlord has demonstrated an entitlement to an order of possession, which will be effective two (2) days after it is served on the Tenant.

Having been successful, I also find the Landlord is entitled to recover the \$100.00 filing fee paid to make the application, which I order may be deducted from the security deposit held.

Conclusion

The Landlord is granted an order of possession, which will be effective two days after it is served on the Tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

I order that the Landlord may deduct \$100.00 from the security deposit held in recovery of the filing fee, reducing the amount of the security deposit to \$650.00.

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: May 6, 2022

Residential Tenancy Branch