



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 Landlords' Application for Dispute Resolution, made on July 14, 2022. The Landlords 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 Landlords attended the hearing and provided affirmed testimony. The Tenants did not attend the hearing.

The Landlords testified the Notice of Dispute Resolution Proceeding package was served on the Tenants by registered mail on July 25, 2022, and that a subsequent evidence package was served on the Tenants by registered mail on August 5, 2022. Canada Post registered mail receipts were submitted in support. In the absence of evidence to the contrary, I find these documents were sufficiently served on the Tenants in accordance with section 71 of the Act.

As noted above, the Tenants did not attend the hearing and did not submit documentary evidence in response to the application.

The Landlords were 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. Are the Landlords entitled to an order of possession?
2. Are the Landlords entitled to recover the filing fee?

Background and Evidence

Although the tenancy agreement submitted into evidence indicates the tenancy began on June 1, 2022, the Landlords testified the Tenants were permitted to move into the rental unit early on May 11, 2022. Rent of \$2,500.00 per month is due on the first day of each month. The Landlords confirmed the Tenants did not pay the security deposit as required under the tenancy agreement.

The Landlords testified that in June 2022, neighbours started complaining about scrap materials accumulating at the rental property, and police attendance. As a result, the Landlords attended the rental property with a realtor and a police officer to conduct an inspection on July 12, 2022. The Landlords discovered a number of issues, including:

- a sewer backup and toilet blockage,
- furniture in the rental unit suggesting more than one family living there,
- a “starlink satellite internet system” bolted directly to the roof through shingles,
- storage of gas cans and flammable liquids against the side of the rental property, and
- hoarding of materials in the back yard.

In support, the Landlords submitted copies of photographs of the septic tank and a backed-up toilet, the satellite internet system bolted directly to the roof through the shingles, and furniture, garbage, and debris throughout the yard.

In addition, the Landlords submitted a copy of an email from JH, a friend, dated August 4, 2022. In it, JH describes attending the rental property on July 12, 2022. The Landlords, a realtor, two contractors, and a police officer were present. When they entered the rental property, they smelled dog urine. They saw that the toilet was blocked and had an unpeeled banana floating in it. There was also evidence of recent flooding in the bathroom. JH stated that he saw a damaged screen door, piles of personal belongings and garbage in the basement, and a damaged roof.

The Landlords also submitted a copy of an email from KH, an employee of the Landlords, dated August 4, 2022. In it, KH confirmed the condition of the bathroom and stated that he was present when the septic tank was pumped out on or about six weeks earlier. KH stated it was fuller than one would expect from use by the Tenants alone. KH also refers to a banana floating in the toilet, which appeared to have overflowed.

The Landlords also submitted a copy of an email from a neighbour dated August 5, 2022. In it, the neighbour advised the Landlords that the Tenants were “coming and going with numerous loads of scrap materials”. The email also advised that a friend of the neighbour works for a scrap company and has seen the Tenants stealing materials. The neighbour also advised that they have seen the Tenants “messing around with a satellite dish...tampering with the hydro meters...yelling and screaming at all hours of the day and night...[and] hitting the dog” on the rental property.

The Landlords also testified that the Tenants have not paid rent or the required security deposit since moving in.

The Tenants did not attend the hearing to dispute the Landlords’ 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 permit an arbitrator 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 landlords 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 Tenants have put the Landlord's property at significant risk and have caused extraordinary damage to the rental property. Specifically, I accept the Landlord's unchallenged testimony and evidence regarding the accumulation of a scrap materials and garbage at the rental property in a short period of time, the storage of gas cans and other flammable materials beside the house, the bolting of the satellite system through roof shingle, and the apparent misuse of the septic system.

I also accept that the Tenants have not paid any rent, or the security deposit required under the tenancy agreement. I find that this failure has seriously jeopardized a lawful right or interest of the Landlords.

Further, I find it would be unreasonable or unfair to the Landlords to wait for a notice to end the tenancy under section 47 of the Act. To conclude otherwise would grant the Tenants the opportunity to put the Landlords' property of further risk of damage.

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

Having been successful, I find the Landlords are entitled to recover the filing fee paid to make the application. Therefore, I grant the Landlords a monetary order for \$100.00 in recovery of the filing fee.

Conclusion

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

The Landlords are granted a monetary order for \$100.00. The order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: August 11, 2022

Residential Tenancy Branch