



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Prospero International Realty
Inc. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened in response to an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An order ending the tenancy early and an order of possession - Section 56;
and
2. An Order to recover the filing fee for this application - Section 72.

The Tenant did not attend the hearing. I accept the Landlord’s evidence that the Tenant was served with the application for dispute resolution, notice of hearing and evidence (the “Hearing Package”) by registered mail on September 22, 2022 in accordance with Section 89 of the Act. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if given or served by mail, on the 5th day after it is mailed. Given the evidence of registered mail I find that the Tenant is deemed to have received the Hearing Package on September 27, 2022. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The Landlord submits that the tenancy started on November 1, 2019. Rent of \$985.00 is payable on the first day of each month. The Landlord collected a security deposit of \$487.50.

On September 4, 2022 the police with a SWAT team arrived at the building and evacuated half of the tenants with the other half being told to stay in their units. The Tenant was arrested by the police on that day and charged with sexual assault. Prior to this incident the Tenant had been, among other things, entering other tenant's units without right and broke another tenant's windshield. The Landlord had received complaints from several tenants who were significantly disturbed by the Tenant's actions and following the September 4, 2022 incident the tenants became terrified. The Tenant had returned to the unit about a week after the September 4, 2022 incident and it was not until after the Landlord served their application on September 22, 2022 that they discovered that the Tenant is back in jail. No rent has been paid for either September or October 2022.

Analysis

Section 56(2)(a)(iv)(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 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, 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. Based on the Landlord's undisputed evidence of the Tenant having been charged with an offence and given the Landlord's undisputed evidence of the fear of the other tenants, I find that the Landlord is entitled to an early end of the tenancy. Given the serious nature of the incident on September 4, 2022 I find that it

would be unreasonable for the Landlord to wait for a one month notice to end tenancy to take effect. The Landlord is therefore entitled to an order of possession.

As the Landlord has been successful with its claim, I find that the Landlord is entitled to recovery of the **\$100.00** filing fee and the Landlord may deduct this amount from the security deposit in full satisfaction of this claim.

Conclusion

I grant an Order of Possession to the Landlord effective two days after its service on the Tenant. The Tenant must be served with this **Order of Possession**. Should the Tenant 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: October 17, 2022

Residential Tenancy Branch