



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing convened to deal with the landlord's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The landlord applied for an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act and recovery of the cost of the filing fee.

The landlord's agent, the landlord, and the tenant attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me. The tenant confirmed receipt of the landlord's application and evidence and that she did not provide evidence.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced in this Decision. Further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision, per Rule 3.6.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a One Month Notice to End Tenancy?

Is the landlord entitled to an Order of Possession of the rental unit and recovery of the cost of the filing fee?

Background and Evidence

The tenancy began June 1, 2020. The tenant resides in the upper unit and other tenants reside in the lower unit. The tenants in the lower unit have been evicted due to unpaid rent. The tenancy agreement was filed in evidence.

In their application, the landlord wrote the following:

*(*Tenant name) was involved in a police chase with a gun that was all over the news. (*Tenant name) then hid in the property and the police shot canisters through the windows. The police obtained a search warrant as the residents the property were not cooperative, this caused the entire neighborhood to be locked down for an entire day. This property is a multi family property, which endangers the other family who lives in the home. After the arrest, extensive wires were found not to permit =fire hazard*

[Reproduced as written except for anonymizing personal information to protect privacy]

The evidence filed by the landlord included a letter from the RCMP, with a warning to the landlord as to his responsibility as a property owner, the search warrants, and a newspaper article about the incident, providing comprehensive details of the events.

A passage from the letter is reproduced as follows:

Please be advised that your property has been the focus of several police involved incidents including:

Kelowna RCMP file 2022-: Flight from Police and Firearms investigation resulting in Emergency Response Team activation and 10 hour police standoff;
Kelowna RCMP file 2022-: Drug Trafficking investigation;
Kelowna RCMP files 2022-, 2022- & 2022-: Theft under \$5000 investigation and ongoing issues between tenants, as well as unwanted guests;
Kelowna RCMP file 2022-: Recovered Stolen Ford F350;
Kelowna RCMP file 2022-: Overdose;
Kelowna RCMP file 2022-: Concerns of Drug Trafficking at the residence

Given the above mentioned incidents, it is the position of the Kelowna RCMP that your property is actively being used as an instrument of unlawful activity. As a property owner you have an obligation to ensure your property is not being used to facilitate criminal events. Failure to act accordingly shows either a willful blindness on your part or negligence in fulfilling your obligations. Lawful recourse exists through the Residential Tenancy Act to protect your interests and rights as a property owner.

[Reproduced as written except for anonymizing personal information to protect privacy]

The agent on behalf of the landlord testified to the following: On December 29, 2022, a major incident occurred at the residential property, which involved police officers and the SWAT coming to the property as the tenant and others had barricaded themselves in the property. The agent was told that the police used a “flash bang”, or “stun grenades”, in the process of entering the property, and everyone in the home was detained and removed. In the process, due to the dangers, the entire street was shut down for hours in order to wait for and execute search warrants. The police informed the landlord a gun was found on the premises and that the tenant was one of the occupants in the car who was arrested, and removed.

The landlord testified to the following: The landlord was informed by one of the neighbours there was a major standoff in the neighbourhood and the whole street was shut down. The police told the landlord that both upper and lower tenants were engaged in unlawful activities.

Tenant's response –

The tenant testified to the following: The tenant was upset as her fiancé, the other listed tenant, died and she could no longer afford the rent. As a result, she arranged for a friend to come over and help, but in the process, that friend brought other people she

did not know with him. The tenant went with her friend to the store to get some “smokes”, but did not realize the car was stolen or that there was a gun in the car. She alerted her friend to the police car’s blue lights, which resulted in him speeding away and going back to the rental unit. The tenant confirmed she was taken away, but was not ultimately arrested. The police did shoot through the windows, but she has had those replaced.

Analysis

Based on the documentary evidence and the testimony during the hearing and on a balance of probabilities, I find the following.

Section 56 of the *Act* indicates:

56 (1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) 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,

(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.

[emphasis added]

Based on the evidence, I find the landlord submitted sufficient evidence that the tenant or persons permitted on the residential property by the tenant have seriously jeopardized the health or safety or a lawful right or interest of the landlord and have committed illegal acts which caused damage to the landlord's property.

The RCMP also mentioned other criminal investigations ongoing at the property, such as concerns of drug trafficking and an overdose.

Further, I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a notice to end tenancy under section 47 of the Act.

I find the actions of the persons permitted on the residential property by the tenant and the documentary evidence before me to support that the persons had possession of a stolen vehicle and firearm and that because the persons barricaded themselves in the rental unit, causing the SWAT team to breach the home, resulting in property damage.

Additionally, the landlord was warned by the RCMP that their opinion was that the residential property was actively being used as an instrument of lawful activity.

I therefore grant the landlord's application to end this tenancy early.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service on the tenant. I order

the tenancy ended the date of this hearing, January 31, 2023, pursuant to sections 56 and 62(3) of the Act.

If it becomes necessary for the landlord to enforce the order of possession of the rental unit, the tenant is cautioned that they may be liable for **bailiff and all other costs**.

I also grant the landlord recovery of the filing fee of \$100. As a result, I issue the landlord a monetary order in the amount of \$100. If enforcement is necessary, the landlord must serve the tenant a copy of the monetary order. The tenant is cautioned that costs of enforcement are subject to recovery from the tenant.

In the alternative, I authorize the landlord to deduct \$100 from the tenant's security deposit in satisfaction of recovery of their filing fee, if the landlord so chooses. In that case, the monetary order is null and void and of no force or effect.

Conclusion

The landlord's application is successful. I order that the tenancy ended this date, January 31, 2023.

The landlord is granted an order of possession effective two (2) days after service on the tenant.

The tenant is cautioned that should she fail to vacate the rental unit as ordered, she may be responsible for the costs of enforcement, **which include bailiff fees**.

I also grant the landlord a monetary order in the amount of \$100, due to their successful application.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: January 31, 2023

Residential Tenancy Branch