



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On January 9, 2023, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

N.M. attended the hearing as an agent for the Landlord. The Tenant attended the hearing as well, with A.N. attending as an advocate for the Tenant. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

N.M. advised that the Tenant was served with the Notice of Hearing and evidence package by hand on January 10, 2023, and the Tenant confirmed receiving this package. Based on this undisputed testimony, I am satisfied that the Tenant was duly served the Landlord’s Notice of Hearing and evidence package. As such, I have accepted the Landlord’s documentary evidence and will consider it when rendering this Decision.

The Tenant advised that she did not submit any documentary evidence for consideration on this file.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an early end to this tenancy and an Order of Possession?
- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on April 1, 2021, that rent was established at \$1,100.00 per month, and that it was due on the first day of each month. A security deposit of \$550.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence for consideration.

N.M. testified that the Tenant caused a fire in early January 2023, prompting the fire and police departments to be called. Upon inspecting the rental unit afterwards, the Landlord discovered a substantial amount of damage to the rental unit that was not caused by the fire department's response in extinguishing the fire. He advised that there were sizable holes in the walls and doors that were clearly smashed by the Tenant, that there were broken windows, and that there was evidence of drug use. He referenced the pictures submitted as documentary evidence to corroborate the significant and substantial damage caused by the Tenant. He stated that other residents of the building are terrified for their lives due to the fire and the behaviour of the Tenant.

The Tenant initially advised that she had “no comment” about the Landlord’s allegations, but she did not agree with them; however, she stated that she wanted to end the tenancy regardless. She then confirmed that she was frustrated, that she “got angry”, that she “threw” objects within the rental unit, and that she was negligent for the damage.

Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 56 of the *Act* establishes the grounds for the Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. In order to end a tenancy early and issue an Order of Possession under Section 56, I need to be satisfied that the Tenant, or a person permitted on the residential property by the Tenant, has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord’s property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord’s property;*
- *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;*
- *engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
- *caused extraordinary damage to the residential property, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

I find it important to note that the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. I also note that the threshold of evidence required to justify an early end of tenancy Application is

much higher than that of an Application for an Order of Possession based on a One Month Notice to End Tenancy for Cause.

When reviewing the totality of the evidence before me, the consistent and undisputed testimony is that the Tenant intentionally caused an extensive amount of damage to the rental unit, including starting a fire. Ultimately, I am satisfied that the Tenant's above behaviours posed a danger that would fall under the categories of seriously jeopardizing the health or safety or a lawful right or interests of the Landlord or another occupant, putting the Landlord's property at significant risk, and causing extraordinary damage to the residential property.

The Landlord must also demonstrate that "it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 for cause" to take effect. Based on the consistent and undisputed testimony, I am satisfied that the Tenant has engaged in a number of behaviours that were malicious, intentional, completely inexcusable, and endangered the property and the lives of people in the building. Should the tenancy resume, there is no doubt that there would be a genuine concern for the ongoing safety of the rental unit, or for others occupying the building.

Given the scope of the damage described, and under these circumstances, I find that it would be unreasonable and unfair for the Landlord to wait for a One Month Notice to End Tenancy for Cause to take effect. For these reasons, I am satisfied that there has been sufficient evidence provided to warrant ending this tenancy early. As such, I find that the Landlord is entitled to an Order of Possession.

As the Landlord was successful in this Application, I find that the Landlord is entitled to recover the \$100.00 filing fee paid for this Application. Pursuant to Section 72 of the *Act*, I allow the Landlord to retain this amount from the security deposit in satisfaction of this debt outstanding.

Conclusion

I grant an Order of Possession to the Landlord effective **two days after service of this Order** on the Tenant. Should the Tenant, and all occupants, fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

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: January 31, 2023

Residential Tenancy Branch