



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0943151 BC LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FFL

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (Act) for an order to end the tenancy early due to urgent health or safety reasons and receive an order of possession, and to recover the cost of the filing fee.

Landlord agent, PS (agent) and witness Sgt.SD, Surrey RCMP (witness) attended the teleconference hearing. The agent and witness gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me. The hearing process was explained and an opportunity to ask questions was provided. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenants did not attend the hearing, service of the Notice of Dispute Resolution Proceeding dated January 31, 2023 (Notice of Hearing), application and documentary evidence were considered. The agent testified that the Notice of Hearing, application and documentary evidence (Hearing Packages) were served on the tenants' door on January 31, 2023 between 3:30PM and 4:00PM. Pursuant to section 90 of the Act, which states that documents posted to the door are deemed served 3 days after they are posted, I find the tenants were deemed served as of February 3, 2023 with the Hearing Packages.

RTB Rule 7.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) applies and states the following:

Rule 7.3 Consequences of not attending the hearing

The arbitrator may conduct the hearing in the absence of a party or dismiss the application, with or without leave to re-apply.

Based on the above, I find this matter to be unopposed by the tenants and the hearing continued without the tenants present.

Preliminary and Procedural Matters

The agent confirmed that the tenants continue to occupy the rental unit.

The agent confirmed their email address stated that they understood that the decision would be emailed to them. The decision will be sent by regular mail to the tenants as the landlord did not provide an email address for the tenants as they are not aware of an email address for either tenant.

Issues to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession under section 56 of the Act for health or safety reasons?
- If yes, is the landlord also entitled to recover the cost of the filing fee under the Act?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. The tenancy began on February 1, 2022.

The landlord writes in their application the following:

The Surrey RCMP has executed 3 drug warrants on the Property in the last year (Jun/02/22, Jan/11/23, Jan/20/23). There has been a total of 2.7kg of drugs, 1 loaded rifle with an illegal magazine and a shotgun found during those warrant executions. There were also a large amount of stolen bikes found in the backyard as well as the inside of the home being quite messy. These Tenants have put the other tenants of the home as well as our property at serious risk.

[reproduced as written]

The agent presented their witness, Sgt. SD from the Surrey RCMP (Whalley) who confirmed that they wrote the email submitted in evidence dated January 24, 2023 confirming 3 different search warrants executed at the rental unit property as follows:

1. Surrey RCMP file number 2022-79274 / June 02 2022, Surrey RCMP drug warrant execution. 650 grams of drugs recovered and a loaded rifle with an illegal magazine.
2. Surrey RCMP file number 2022-189679 / January 11 2023, Surrey RCMP drug warrant execution. 1.7 Kilos of drugs recovered and a shotgun found.
3. Surrey RCMP file number 2023-10756 / January 20 2023, Surrey RCMP drug warrant execution. 350 grams of drugs recovered.

Analysis

Based on the undisputed testimony of the agent and witness and undisputed documentary evidence provided during the hearing, and on a balance of probabilities, I find and I am satisfied that the tenants have 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. I find the tenants were found with a substantial amount of drugs, weapons, one of which was loaded with an illegal magazine.

Section 56 of the Act applies and states:

Application for order ending tenancy early

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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

[emphasis added]

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 tenants and the documentary evidence before me to support that the tenants have been found with a substantial amount of drugs, and more than one weapon, including one loaded with an illegal magazine. Furthermore, I find that such behaviour is unreasonable in any tenancy. 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 find the tenancy ended the date of this hearing, **February 9, 2023**, pursuant to section 56 and 62(3) of the Act.

As the landlord's application had merit, I grant the landlord the recovery of their **\$100** filing fee pursuant to section 72 of the Act. I authorize the landlord to deduct \$100 from the tenant's security deposit of \$750 in full satisfaction of the recovery of the cost of the filing fee pursuant to sections 38, 67 and 72 of the Act. Pursuant to sections 38 and 62(3) of the Act, I find that the tenants' security deposit balance is \$650 effective immediately.

Conclusion

The landlord's application is fully successful.

The tenancy ended this date, February 9, 2023.

The landlord is granted an order of possession effective two (2) days after service on the tenants. This decision will be emailed to the landlord and sent by regular mail to the tenants.

The order of possession will be emailed to the landlord for service on the tenants. This order may be enforced through the Supreme Court of British Columbia.

The tenants are reminded that they can be held liable for all costs related to enforcement of the order of possession, including court costs and bailiff fees.

The security deposit is decreased by \$100 for the filing fee, which I find results in the tenants' security deposit being \$650 effective immediately.

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

Dated: February 9, 2023

Residential Tenancy Branch