



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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 early end to the tenancy and an order of possession - Section 56;
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 in person on February 9, 2023 in accordance with Section 89 of the Act. The Landlords were given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy under written agreement started on September 1, 2022. Rent of \$3,250.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$1,625.00 as a security deposit. On December 7, 2022 the Landlord served the Tenant with a one month notice to end tenancy for cause dated December 7, 2022 (the “Notice”). The Notice details noise disturbances. The Tenant did not dispute the Notice and has not moved out of the unit. The Tenant’s behavior escalated since the provision of the Notice with the Tenant causing significant damage to about 10 walls in the unit with one wall bearing even more significant damage. The Landlord provides

photos of the unit taken February 2, 2023. After this date the Tenant caused further damage to the unit and the police were called twice. The noise and disturbances that were noted on the Notice have continued unabated.

Analysis

Section 56(2) 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,

(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.

It is undisputed that the Tenant caused considerable and repeated noise resulting in the disturbance of other tenants or the Landlord. Given the undisputed evidence of significant damage that occurred to the unit after the Notice was given to the Tenant I

also find that the Tenant caused significant damage to the unit and that the Landlord has substantiated that it would be unreasonable to wait for the Notice to take effect.

As the Landlord's claim has been successful 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 of \$1,625.00 in full satisfaction of this claim.

Conclusion

I grant an Order of Possession to the Landlord effective two days after 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: February 27, 2023

Residential Tenancy Branch