



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: ET / OPC, FF

Introduction

This hearing dealt with the landlord's application for an early end to tenancy, an order of possession, and recovery of the filing fee for this application. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the landlord is entitled to an early end to tenancy, an order of possession, and recovery of the filing fee

Background and Evidence

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began on March 18, 2009. Rent in the amount of \$650.00 is payable on the first day of the month, and a security deposit of \$325.00 was collected on March 17, 2009.

The landlord issued a 1 month notice to end tenancy for cause dated August 1, 2009. The landlord states that the notice was served in person on the tenant present at the hearing on that same date. A copy of the notice was submitted into evidence. Reasons shown on the notice for its issuance are as follows:

Tenant has allowed an unreasonable number of occupants in the unit / site

Tenant or a person permitted on the property by the tenant has:

significantly interfered with or unreasonably disturbed another occupant or the landlord

Tenant has engaged in illegal activity that has, or is likely to:

damage the landlord's property

adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

Tenant has assigned or sublet the rental unit / site without landlord's written consent

Documentary evidence submitted by the landlord includes letters from other tenants in the building which describe various concerns about the conduct and activity of the tenants or others permitted on the property by the tenants, which are consistent with the reasons set out above for the landlord's issuance of the notice.

The tenant disputed that she had received the 1 month notice. The tenant acknowledged that police had been called to the unit, however, she disputed that the landlord has grounds for ending the tenancy.

Analysis

Based on the documentary evidence and testimony of the parties, on a balance of probabilities I find that the tenants were served with a 1 month notice to end tenancy for cause dated August 1, 2009. The tenants did not dispute the notice within 10 days of receiving it by filing an application for dispute resolution. The tenants are therefore conclusively presumed under section 47(5) of the Act to have accepted that the tenancy ended on the effective date of the notice, which is automatically changed pursuant to section 53 of the Act. Accordingly, I find that the landlord is entitled to an order of possession.

Section 56 of the Act speaks to **Application for order ending tenancy early**, and provides in part, as follows:

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.

On a balance of probabilities, I find that the landlord has met the burden of proof in his claim that there are grounds for ending the tenancy early, as set out in section 56 of the Act and as identified in the notice itself. Pursuant to the landlord's request, the early end to tenancy and the order of possession are effective at 1:00 p.m., Friday, August 28, 2009.

As the landlord has succeeded in this application, I find that the landlord is entitled to recovery of the \$50.00 filing fee. I therefore order that the landlord may withhold \$50.00 from the tenants' security deposit for this purpose at the end of tenancy.

Conclusion

Pursuant to all of the above, I hereby issue an order of possession in favour of the landlord effective not later than **1:00 p.m., Friday, August 28, 2009**. This order must be served on the tenants. Should the tenants 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.

DATE: August 24, 2009

Dispute Resolution Officer