



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This hearing was convened in response to an application by the landlord for dispute resolution pursuant to **Section 56** of the *Residential Tenancy Act* (the Act) seeking an early end to a tenancy with an Order of Possession, and recover the filing fee.

The hearing was conducted via teleconference and was attended solely by the 2 landlords in this matter. I accept the landlord's evidence that despite the tenant having been personally served with the application for dispute resolution and notice of dispute resolution hearing in accordance with Section 89 of the Act, the tenant did not participate in the conference call hearing. The landlord further testified they served the tenant with all of their evidence in this matter. The landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the landlord entitled to an Order of Possession, pursuant to the provisions of Section 56 of the *Act*, without the requirement of one (1) months' Notice to End Tenancy under Section 47 of the Act?

Background and Evidence

The undisputed evidence in this matter is as follows. The rental unit is half of a duplex in which the named tenants currently still reside. A third occupant of the unit was purportedly criminally charged by police, has vacated the unit, and currently is under a 'no contact order' in respect to the landlord. The landlord claims the tenant has recently allowed 2 additional occupants into the unit.

The landlord recently carried out some needed repairs and remediation of the rental unit by replacing the carpeting of the unit due to excessive soiling by the tenant's pets and

has repaired holes in the walls of the unit. The landlord determined the tenant had also caused an abundance of damage to various areas of the unit including the kitchen and bathroom. The landlord has replaced a malfunctioning toilet which was allowing *metered* water to flow uncontrollably for several months as the problem was not made known to the landlord. The kitchen drain is reportedly clogged by candle wax. The relevant photo image evidence submitted by the landlord for seeking an early end to this tenancy is as follows.

- *The subfloor of the carpeted area showing staining reported to be pet urine.*
- *A broken patio door slider screen.*
- *A letter from city bylaw enforcement referencing 5 violations of unsightly premises, discarded furniture on property and accumulation of garbage and dog feces.*
- *A storage area with reportedly discarded furniture and other items. The landlord also provided an image of a 20 yard commercial refuse bin containing discarded furniture and other discarded items strewn on the property.*
- *A repaired area of the kitchen ceiling at the base of the light fixture.*
- *Damaged/broken baseboard heater panels*
- *Damaged/broken kitchen cabinetry.*
- *A broken exterior storage room door and frame. (The landlord claims that all but one door of the unit have been damaged however did not provide images of same.*
- *Messaging by the tenant and prior occupant of the unit to the landlord in support of evidence vis a vis eventual police involvement leading to criminal harassment charges and a no contact order.*

Analysis

The full text of the Act, and other resources, can be accessed via the Residential Tenancy Branch website: www.gov.bc.ca/landlordtenant.

On the *relevant* evidence in this matter I find the following. I find that **Section 56** of the Act is two-fold, in that it allows a landlord to request an end to a tenancy and for an Order of Possession without providing a 1 Month Notice to End for Cause, if the landlord has cause to end the tenancy pursuant to **Section 56(2)(a)(i)** through **(v)** and that pursuant to **Section 56(2)(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 pursuant to **Section 47** to be effective.

I have reflected upon all the evidence in this matter. On preponderance of the evidence I am satisfied and find that the landlord has provided sufficient evidence establishing that the tenant has, pursuant to Section 56(2)(a)(iii) and (v) of the Act,

- (iii) put the landlord's property at significant risk
- (v) caused extraordinary damage to the residential property

I also find that pursuant to Section 56(2)(b) of the Act the circumstances in this matter establish that it would be unreasonable and unfair to the landlord and other occupants of the residential property to wait for a Notice to End tenancy issued under Section 47 to take effect.

As a result, I find that the tenancy will end. The landlord is entitled to an Order of Possession effective in accordance with my Order. As the landlord has been successful in this matter they are entitled to recover the filing fee.

Conclusion

The landlord's application is granted.

I grant the landlord an Order of Possession effective **two days after service on the tenant**. This Order must be served on the tenant and, if necessary, may be filed in the Supreme Court and enforced as an Order of that Court.

In satisfaction of the filing fee **I grant** the landlord a Monetary Order pursuant to Section 67 of the Act in the amount of \$100.00.

This Decision is final and binding.

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: November 14, 2018

Residential Tenancy Branch