Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes   ET, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an early end to this tenancy and an order of possession pursuant to section 56;
- authorization to recover their filing fee for this application from the tenants pursuant to section 72.

The landlords' agent (the landlords) attended the hearing via conference call and provided undisputed testimony. The tenants did not attend or submit any documentary evidence. The landlords stated that each of the tenants were served with the notice of hearing package and the submitted documentary evidence in person on October 4, 2019. The landlords also refer to a submitted copy of a proof of service document as confirmation of service. I accept the undisputed evidence of the landlords and find that both tenants have been properly served as per sections 88 and 89 of the Act. Although the tenants failed to attend the hearing, I find that they have been deemed served as per section 90 of the Act.

Issue(s) to be Decided

Are the landlords entitled to an early end to the tenancy and an order of possession?
Are the landlords entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on January 15, 2019 on a fixed term ending on July 15, 2019 and then thereafter on a month-to-month basis as per the submitted copy of the signed tenancy

agreement dated January 4, 2019. The monthly rent is $2,200.00 payable on the 15th day of each month. A security deposit of $1,100.00 and a pet damage deposit of $200.00 were paid.

The landlords seek an early end to the tenancy and to obtain an order of possession as the tenants pose an immediate and severe risk to the rental property. "The landlord claims that the tenants have converted the workshop into a living quarter and is renting it out to unknown individuals. A cooking facility is being used by running a cord from the main house to the workshop. A clothes washer is also running and being used in the workshop with a hose connection. There is a trailer filled with garbage that is stinking the entire neighborhood. In front of the workshop a makeshift tent is made using several blue tarps and combustible items are stored."

In support of these claims, the landlord has submitted a 15 second video showing two trailers parking in a driveway and a view of tent in the background. The landlords clarified that the tenants have several power cords running from the house to the workshop and tent to provide electricity for heat. The landlords also state that these power cords pose a safety issue and that the tenants were warned to stop using them. The landlords state the tenants continue to use the power cords and renting the space in the workshop and tent to people to live.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

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

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

In this case, I accept the landlords undisputed evidence that the use of several power cords running from the house to the workshop and tent pose a safety hazard. I find that this has put the landlord's property at significant risk. The landlords provided undisputed evidence that the tenants were cautioned to stop using the power cords, but that the tenants have ignored the landlords. On this basis, I find that the tenants actions pose a safety risk to the rental property. The landlords' request for an early end to the tenancy and an order of possession is granted. The order of possession to be effective 2 days after it is served upon the tenants.

The landlords having been successful are entitled to recovery of the $100.00 filing fee.

Conclusion

The landlords are granted an order of possession.
The landlords are granted a monetary order for $100.00.

These orders must be served upon the tenants. Should the tenants fail to comply with the orders the orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court of British Columbia and enforced as orders of those courts.

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: October 24, 2019

_____
Residential Tenancy Branch