



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PENTICTON KIWANIS HOUSING
SOCIETY and [tenant name suppressed to protect privacy]

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 its filing fee for this application from the tenant pursuant to section 72.

The landlord's agent (the landlord) attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on April 21, 2020. The landlord submitted a completed proof of service document for an expedited hearing which included a copy of the Canada Post Customer Receipt Tracking number and label. I accept the undisputed affirmed testimony of the landlord and find that the tenant has been properly served. The tenant is deemed served as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an early end to the tenancy and to obtain an order of possession?

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 October 1, 2017 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated September 19, 2017. The monthly rent is \$358.00 payable on the 1st day of each month.

The landlord seeks an early end to the tenancy and to obtain an order of possession as the tenant has seriously jeopardized the health or safety or lawful right or interest of the landlord or another occupant.

The landlord stated in written details that the tenant “continues to ignore our “Notice-Guest Restrictions” posted March 17/20 in response to Covid 19. The Notice advises that the only guests allowed are immediate family members and Care Givers. Warning letter was issued to D.P on November 27/20 which has also been ignored. By allowing non-authorized guests in the building and her apartment, the tenant places our staff and other guests at greater risk of Covid-19.” The landlord clarified during the hearing that the November 27/20 date was a typographical error and should have been March 27/20.

The landlord stated that this has been an ongoing issue since February 2020 where the tenant has been repeatedly cautioned that this is a rental building for seniors and that the tenant has allowed an additional occupant who is not a senior. The landlord stated that numerous telephone calls and warning letters were served to the tenant cautioning her that her tenancy was at risk if she did not comply. The landlord stated that all contact has been ignored by the tenant. The landlord confirmed that a “Notice-Guest Restrictions” sign was posted in the main lobby and all of the elevators on March 18, 2020 and that the tenant was again specifically notified in a letter on March 27, 2020 to stop allowing her guest from occupying the rental unit. The landlord stated that the tenant is jeopardizing the health and safety of landlord and other occupants of the rental building as they are all seniors.

The landlord also speculated that the tenant is now allowing a second person to reside in the rental unit based upon a letter dated May 7, 2020 submitted from another resident. The letter states that another person has been seen waiting in front of the building and given access by the tenant or her guest.

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.

The Residential Tenancy Act has been amended to support renters and landlords during the provincial state of emergency and to help prevent the spread of Covid-19. The amendments are in effect for the duration of the state of the emergency. Regarding Accessing Rental Units and Common Areas. To encourage physical distancing and minimize the transmission of Covid-19, the emergency order says that landlords may reasonably restrict or schedule the use of common or shared areas to support physical distancing and prevent the spread of the virus. This applies to both tenants and guests of the rental building.

In this case, the landlord has provided undisputed affirmed evidence that the tenant is giving access to a guest who is a non-resident of a seniors building to reside in the building. The landlord stated that the guest was not a senior. The landlord stated that Notice(s) has been posted in the main lobby and elevators restricting guests and the tenant has given at least 2 written warnings/cautions to stop allowing guest during the Covid19 Pandemic or that her tenancy was at risk. The landlord provided undisputed evidence that despite all these warnings the tenant continues to allow access for a

guest. The landlord also stated that based upon a note from another resident that he feels that the tenant has now allowed a second person to reside in rental unit.

I find based on the above that the landlord has provided sufficient evidence to satisfy me that an early end to the tenancy is warranted. The landlord is granted an order of possession. The order of possession to be effective two days after it is served upon the tenant.

The landlord having been successful is also entitled to recovery of the \$100.00 filing fee.

Conclusion

The landlord is granted an order of possession.
The landlord is granted a monetary order for \$100.00.

These orders must be served upon the tenant. Should the tenant fail to comply with these orders, these orders may be filed in the Supreme Court of British Columbia and the Small Claims Division of the Provincial Court and enforced as an order 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: May 12, 2020

Residential Tenancy Branch