



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Skyline Living
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession, and to recover the filing fee from the Tenant.

The Landlord attended the hearing and provided testimony. However, the Tenant did not appear. The Landlord stated that she sent the Notice of Hearing, and evidence by registered mail on July 16, 2021. Proof of mailing was provided into evidence. This package was sent to the rental unit. Pursuant to section 89 and 90 of the Act, I find the Tenant is deemed to have received this package on July 21, 2021, the fifth day after its registered mailing.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

The Landlord stated that the Tenants have lived in this rental unit for nearly one year now, and have not paid any rent. The Landlord explained that since early this year, other occupants in the building have complained of loud banging, fighting, yelling, and violence coming from this rental unit. The Landlord stated that she attended the unit on June 20, 2021, with the RCMP to do an inspection of the unit and to take photos. Copies of these photos were provided into evidence.

The Landlord explained that when she attended the unit on June 20, 2021, she was able to confirm that the Tenants have broken down doors inside the rental unit, punched holes in the walls, flooded the unit, left dog feces on the carpet. The Landlord also stated that the Tenants have removed the smoke alarms and are smoking in the unit, despite it being a no-smoking unit. The Landlord stated that the outbursts and damage within the unit has escalated in recent months, and they are concerned that if this tenancy continues, the rental unit will suffer extreme damage.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied that:

- 1) There is sufficient cause to end the tenancy based on any of the following causes:

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,

- 2) 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 to take effect.

I have carefully considered the testimony and evidence from the Landlord. I find the Tenant's actions and behaviour in recent months is concerning, and is causing a significant amount of property damage to the rental unit. This damage is extensive, and there is a real possibility for the damage to continue, given the recent increase in negative and destructive activity in the unit. I find the Tenants actions are putting the Landlord's property at significant risk, and I also find it would be unreasonable and unfair for the Landlord to wait for a 1 Month Notice to take effect.

I find the Tenant's behaviour is significant and severe enough as to warrant an early end to the tenancy, pursuant to section 56 of the Act. As such, I find the Landlord is entitled to an order of possession, effective 2 days after service on the Tenant.

As the Landlord's application was successful, and pursuant to section 72 of the Act I grant the Landlord the recovery of the cost of the filing fee in the amount of **\$100.00**. I **authorize** the Landlord to retain \$100.00 from the Tenants' \$840.00 security deposit in full satisfaction of the recovery of the cost of the filing fee, which I find leaves a security deposit balance of \$740.00.

Conclusion

The Landlord has met the burden to prove the tenancy should end early.

The Landlord is granted an order of possession effective **two days after service** on the Tenant. This order must be served on the Tenant. If the Tenant fails to comply with this order the Landlord may file the order with the Supreme Court of British Columbia and be 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 *Residential Tenancy Act*.

Dated: August 06, 2021

Residential Tenancy Branch