



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **ET, FFL**

Introduction

This is an application by the landlord to end the tenancy early by way of an expedited hearing and seeking;

- an order of possession for the subject residential property
- for reimbursement of the filing fee pursuant to section 72 of the Act

The landlord attended the hearing represented by EC and AT. The tenant NK also attended. All parties present were given a full opportunity to be heard, to present their sworn testimony and to make submissions under oath.

The hearing was conducted by conference call. The parties were reminded not to record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

I confirmed service of the hearing package with the tenant and no issues arose.

Issue(s) to be Decided

1. Is the landlord entitled to an order ending the tenancy early?
2. Is the landlord entitled to recover the filing fee for this application?

Background and Evidence

The tenancy commenced approximately five years ago. There is no written tenancy agreement. Rent is \$500.00 per month due on the first day of the month. No security deposit was paid. The tenant still occupies the rental unit.

The landlords testified that on January 16, 2023 the tenant returned home to the rental unit with a can of gasoline and stated to his roommate that he was going to burn down the rental unit. He then proceeded upstairs and poured gas out the window. The police attended however the tenant jumped out the window and the police had to search for him. The landlord testified that the tenant demolished the upstairs portion of the rental unit and submitted photos in evidence depicting the damage that they allege was caused by the tenant.

The tenant did not dispute the allegations regarding the incident with the gasoline, nor did he deny jumping out the window and running away. He testified that he was having issues with his roommate. He wanted his roommate to vacate the rental unit and he was “coming down” and that was the reason for his behaviour. He denied destroying the upstairs portion of the rental unit. He stated that charges are pending as a result of the incident, however there have been no incidents since that time.

Landlord responded to the tenant’s evidence by stating that the stairs at the rental unit are now totally black due to gasoline being poured on them.

Analysis

RTB Rules of Procedure 6.6 states, “The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 56 of the Act allows the director to make an order ending a tenancy early if the landlord establishes that the tenant seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant or put the landlord's property at significant risk.

The undisputed evidence before me is that the tenant threatened to burn down the rental unit and took steps towards completing his goal. While he never set the rental unit on fire, the act of pouring gasoline on the rental property created an immediate and significant risk both to the rental property and to the other occupant of the rental property. I therefore find that the landlord has established grounds to end the tenancy on an expedited basis.

Given the immediate and ongoing risk to the rental property and to the other occupant of the rental property it would be unreasonable to require the landlord to wait for a notice to end tenancy to take effect under section 47.

I find that the landlord is entitled to an order of possession for the rental property on an expedited basis.

As the landlords were successful in their application, they are entitled to recover the \$100.00 filing fee for the application.

Conclusion

The landlords are granted an order of possession which will be effective two days after it is served on the tenant. The order of possession must be served on the tenant. The order of possession may be filed in and enforced as an order of the Supreme Court of British Columbia.

The landlords are granted a monetary order for \$100.00 in recovery of the filing fee. The monetary order must be served on the tenant. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: February 1, 2023

Residential Tenancy Branch