



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding FAIR LABEL ENTERPRISES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with a landlord's application for an order to end the tenancy early and an Order of Possession. The tenant did not appear at the hearing. The landlord testified that the hearing package was posted on the tenant's door on June 25, 2015 in the presence of a witness. The landlord provided a signed Proof of Service in support of her testimony. The landlord testified that the landlord's evidence package was personally served upon the tenant on July 8, 2015 by another agent for the landlord. The landlord appearing at the hearing stated that she saw the evidence package on the tenant's table when she entered the tenant's unit. The landlord also left the teleconference call briefly to knock on the tenant's door and remind her about the hearing; however, the landlord stated the tenant was not home. Based upon the undisputed evidence before me, I accepted that the tenant was sufficiently served with the hearing package and evidence and I continued to hear from the landlord without the tenant present.

Issue(s) to be Decided

Has the landlord established that the tenancy should end early and entitled to an Order of Possession under section 56 of the Act?

Background and Evidence

The tenancy commenced December 1, 2004 and rent is payable on the 1st day of every month.

The landlord seeks an early end to this tenancy on the basis that the tenant has or is likely to seriously jeopardize the health and safety of other occupants.

The landlord testified that the residential property is an older, three storey, wood frame apartment building and on two occasions there has been a fire on the tenant's bed. In

addition, the landlord observed several burn marks in the tenant's clothing and on the kitchen floor.

On March 17, 2015 the fire department was called to put out a burning mattress inside the tenant's rental unit. The mattress and bedding was discarded into the pool area by the fire department. The landlord took photographs of the discarded mattress and bedding and provided a photograph of the text message she received from the fire department with respect to the call to the property. The burnt mattress has one large burn and numerous smaller burn marks.

On June 19, 2015 the landlord was in the hallway and smelled a burning smell coming from the rental unit. The landlord entered the rental unit and found the tenant in the rental unit, who was upset, and a burned box spring that she was using as a bed. The landlord took photographs of the burnt box spring, burnt bedding in the bathroom, and numerous burn marks in the kitchen flooring.

The landlord testified that several other occupants of the building have expressed that they are seriously concerned for their safety and the lives of the children and pets due to the repeated fires caused by the tenant. Five tenants provided written statements describing events that have taken place with respect to the mattress fires and their concern for their safety.

I was also provided photographs of garbage bags containing numerous empty cigarette packages taken outside of the rental unit on April 16, 2015.

Analysis

Section 56(2) of the Act permits an Arbitrator to make an order to end the tenancy on a date that is earlier than the effective date on a 1 Month Notice to End Tenancy for Cause had one been issued. In order to grant an order to end the tenancy early I must be satisfied that:

- (a) 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

(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 under section 47 [landlord's notice: cause] to take effect.

[reproduced as written with my emphasis added]

The landlord bears the burden to prove the tenant has acted in such a way as to warrant an order to end the tenancy earlier than by way of a 1 Month Notice. The burden is high as this provision is intended to apply in the most severe circumstances.

Upon consideration of all of the undisputed evidence presented to me, I accept that the tenant's bed was burnt on at least two occasions, and that several burns have been created in other areas of the tenant's rental unit such as the kitchen floor. Taking into account these burns have taken place on multiple occasions, that the building is of older wood frame construction occupied by several other people I find there is a serious risk to the health and safety of other occupants of the residential property should this tenancy continue. In such serious circumstances with potential for dire consequences, I find that an early end to the tenancy is warranted. Therefore, I grant the landlord's request for an early end of tenancy and Order of Possession as provided under section 56 of the Act.

I order that this tenancy shall end two days after the Order of Possession provided to the landlord with this decision is served upon the tenant.

The landlord is provided an Order of Possession that is effective and enforceable two days after service upon the tenant.

Conclusion

The landlord's requests for an early end of tenancy and an Order of Possession have been granted.

The tenancy ends and the tenant must vacate the rental unit effective two days after the Order of Possession is served upon her.

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: July 15, 2015

Residential Tenancy Branch

