



Dispute Resolution Services

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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 tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenant confirmed receipt of the landlord's notice of hearing package and the submitted documentary evidence. The tenant provided no documentary evidence. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been sufficiently 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 to obtain 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 September 8, 2016 on a fixed term tenancy for 1 year and then there after on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$1,950.00 payable on the 1st day of each month. A security deposit of \$725.00 was paid on September 6, 2016 and a pet damage deposit was paid on December 1, 2016.

The landlord, K.R. (the landlords) seek an early end to the tenancy, to obtain an order of possession and recovery of the filing fee.

The landlords provided written details stating,

Tenant was late paying rent the last 4/7 months so we served him with a 1 mos notice to end tenancy on Apr 2/17 despite many warnings/opportunities. We then posted notice of showings on his door Apr 5th and also emailed this info. Tenant has replied via email on Apr 5th ...refusing to allow any showings and also threatened our family. All showings cancelled. He is refusing to move out.

The landlords provided affirmed testimony that she is not aware of how any of the listed written details apply to an application under section 56 of the Act. The landlords instead stated that recently the front door of the rental premises to be unsecured and poses a serious risk to the landlords' security of the residential property. Both parties confirmed that the door could not be secured due to a broken door trim. The door lock strike plate which was attached to the broken door trim was preventing the front door from being secured.

Analysis and Conclusion

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 find that the landlords' original reasons for an early end to the tenancy fail the requirements under section 56 of the Act. The landlords have failed to identify how the reasons for cause listed could not be dealt with under a 1 Month Notice to End Tenancy or that these particular circumstances would lend an urgency that would be unreasonable or unfair to wait for a cause notice to take effect. As such, the landlords' application for an early end to the tenancy is dismissed.

Both parties spoke to an issue of an "unsecured" door for ending the tenancy. I find that as the landlords failed to identify this as part of the original application or file an amendment to the application adding this issue, it cannot be resolved as part of this application. Both parties confirmed that the landlords have known about the "unsecured" door. The tenant argues that the landlords have known about the door since the beginning of April 2017. The landlords argued that they were never notified of the issue from the tenant and became aware of it some two weeks before this scheduled hearing date, but have chosen not to repair the door.

The landlords' application is dismissed.

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 05, 2017

Residential Tenancy Branch