



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

ET

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession ending the tenancy earlier than a notice to end the tenancy would take effect.

The landlord attended the hearing and gave affirmed testimony, and called one witness who gave affirmed testimony. Another witness was also present, who did not testify or take part in the hearing.

The tenant did not attend the hearing, and the landlord's witness testified that the tenant was served with notice of this hearing and the application for dispute resolution by posting the hearing package to the door of the rental unit on December 14, 2017, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Should the landlord be granted an Order of Possession without the necessity of serving a notice to end the tenancy?

Background and Evidence

The landlord's witness testified that the landlord is the witness' mother, and the tenant is the witness' brother.

The witness inspected the rental unit on December 11, 2017 and found that the tenant had smashed all exterior windows in the rental unit including the patio door. He also destroyed some furnishings in the rental unit, such as a desk, the stove, pulled the hood fan off the wall, left burn holes in carpets, floors, counters, holes in the ceiling and bathroom wall, and has left graffiti on walls throughout the rental unit. Police have attended due to disturbances of smashing things and noise. Evidence of spoons and injected illegal drug use was observed, as well as food spoiling, cabinet doors ripped off, and drawer faces removed.

A restoration company has attended and the rental unit is now boarded up with plywood, and the tenant was in a psychiatric facility until recently. The witness is not certain where the tenant is now,

but the tenant agreed to move out. The restoration company says that the rental unit is presently uninhabitable due to possible biological and fentanyl exposure.

Photographs have been provided as evidence for this hearing, and the witness testified that he took the photographs on December 11, 2017.

The landlord testified that this month-to-month tenancy began on October 19, 2016. Rent in the amount of \$400.00 per month is payable on the 1st day of each month, however the tenant is the son of the landlord, and rent hasn't always been paid. No security deposit or pet damage deposit was collected from the tenant.

The landlord also testified that she agrees with the description of the present state of the rental unit as described by the landlord's witness. There has not been damage to the common areas.

Analysis

The *Residential Tenancy Act* requires a landlord who wishes to end a tenancy to give notice to the tenant in the approved form and must have reasons for ending the tenancy. However, in urgent cases, the *Act* states:

56 (1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I have reviewed the photographs provided by the landlord and the landlord's witness, and I am satisfied that if the tenant returns, the landlord has valid concerns about the state of the rental unit. I am also satisfied that the tenant has caused extraordinary damage to the rental property and that it would be unfair or unjust for the landlord to be required to give a month's notice to end the tenancy.

In the circumstances, I find that the landlord is entitled to an Order of Possession. Since the rental unit is currently not inhabitable, I grant the Order of Possession effective immediately.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective immediately.

This order is final and binding and may be enforced.

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: January 09, 2018

Residential Tenancy Branch