



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

ET

Introduction

On January 6, 2018, the Landlord submitted an Application for Dispute Resolution for an early end of tenancy and an order of possession for the rental unit. The matter was scheduled as teleconference hearing. The Landlord attended the hearing; however, the Tenants did not.

The Landlord testified that the Tenants were served with the Notice of Hearing by registered mail on January 11, 2018. The Landlord provided a copy of the registered mail receipts. I find that the Tenants were served with the Notice of Hearing in accordance with sections 89 and 90 of the Act and failed to attend the hearing.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

Background

The Landlord testified that the Tenants have failed to pay the rent for the past two months.

The Landlord testified that the occupant who lives above the Tenant phoned him and said that the Tenants often argue and there are people that come and go from the rental unit. The Landlord testified that the Tenants sleep all day; and he suspects they are dealing drugs.

The Landlord testified that he fixed a window and door at the rental unit approximately two months ago, and he was informed yesterday by the occupant upstairs that there is another broken window. He testified that he did not go to the property to investigate. He testified that there has been no other damage to the rental property and there have been no reports of violence. He reported that he was informed that police have attended the property on a number of occasions.

The Landlord testified that he previously issued the Tenants a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities. The Landlord testified that he did not issue a 1 Month Notice To End Tenancy For Cause.

Analysis

Section 56 of the *Act* states that a Landlord may make an application for dispute resolution to request an order to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 (1 Month Notice) and granting the Landlord an order of possession in respect of the rental unit. If an order is made under this section, it is unnecessary for the Landlord to give the Tenant a notice to end the tenancy.

Under section 56 of the *Act*, the director may end a tenancy and issue an order of possession only if satisfied, in the case of a Landlord's application, the Tenant or a person permitted on the residential property by the Tenant has done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property at 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, **and**,
- 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.

An application for an early end of tenancy 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.

A Landlord has the right to issue a 10 Day Notice to end tenancy for issues related to non-payment of rent and may issue a 1 Month Notice to end tenancy for issues related to breaches of a tenancy agreement; smoking, unapproved occupants; damage; or illegal activity.

While the Landlord submitted testimony regarding the Tenant that is of concern, I find that the Landlord provided insufficient evidence that the Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. The Landlord had no evidence to substantiate that there is damage to the property, or drug dealing that is causing a severe risk, other than his testimony that the other occupant phoned him and made those allegations.

The Tenants did not appear at the hearing; however, their tenancy does not end due to a failure to attend. Since a notice to end tenancy is not issued with respect to an application for an early end of tenancy, it is not as situation where the Tenants are conclusively presumed under the Act to have accepted that the tenancy has ended.

The Landlord's application for an early end of tenancy and an order of possession is dismissed.

Conclusion

The Landlord applied for an early end of tenancy and an order of possession. The Landlord provided insufficient evidence that the Tenants pose an immediate and severe risk to the rental property, other occupants, or the Landlord.

The Landlord's application for an early end of tenancy and an order of possession is dismissed.

The Landlord is at liberty to make application for dispute resolution to pursue the 10 Day Notice he indicates was issued; or serve the Tenants a 1 Month Notice To End Tenancy For Cause.

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 06, 2018

Residential Tenancy Branch