



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution. The Landlord applied for an early end to the tenancy, pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The Landlord attended the hearing and provided testimony. However, the Tenant did not appear. The Landlord stated that he personally served the Tenant with the Notice of Hearing, and evidence in person on March 19, 2018. The Landlord stated that he brought a witness with him. I find the Tenant received the package on this day.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

The Landlord stated that he lives in a coach house at the rear of the property, and he rents out the main part of the house to 4 different occupants. Each rener has a separate agreement with him. He stated that the Tenant named on this application has failed to pay rent for several months. The Landlord stated that the main issue at this point is that

he is not getting and rent money. The Landlord stated that the Tenant is having financial troubles. The Landlord also stated that he has issued a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (the Notice), but he has not yet filed for an order of possession based on this Notice.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act 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.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; 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.

I have carefully considered the evidence before me. However, I note that the only issue the Landlord raised in the hearing was the non-payment of rent. I do not find this issue is immediate or severe, such that it warrants as early end to the tenancy, pursuant to section 56 of the Act. I dismiss the Landlord's application for an order of possession, as I do not find it meets the criteria for an early end to tenancy, as laid out above.

The Landlord is at liberty to apply for an order of possession based on the 10-Day Notice to End Tenancy he has already issued.

Given the Landlord was not successful in this hearing, I decline to award him the recovery of the cost of the filing fee he paid to make this application.

Conclusion

The Landlord has not met the burden to prove the tenancy should end early. Therefore, the Landlord's Application is dismissed without leave to re-apply and the tenancy will continue until such time it is ended in accordance with the Act.

The Landlord remains at liberty to apply for an order of possession based on the 10-Day Notice to end tenancy.

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: April 09, 2018

Residential Tenancy Branch