



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

ET FFL

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; and authorization to recover the filing fee for this application, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenants confirmed receipt of the landlord's dispute resolution application ('Application'). In accordance with section 89 of the *Act*, I find that the tenants were duly served with the Application. All parties confirmed receipt of each other's evidentiary materials.

Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

Both parties agreed to the following facts. This 1 year fixed-term tenancy began on February 1, 2018, with monthly rent currently set at \$1,300.00, payable on the first of the month. The tenants paid a security and pet damage deposit in the amount of \$650.00 each deposit, which the landlord still holds. The tenants still reside at the residence.

The landlord testified that she is seeking an end of this tenancy as the tenants had requested repairs in February of 2018, but after she dispatched trades people to perform the repairs, the tenants refused access, and instead requested that these repairs be performed after they have moved out. The landlord gave the tenants notice by way of text message. The landlord also testified that the tenants have failed to pay outstanding rent on time for this tenancy. The landlord also expressed concern about the tenants' threats which refer to the tenants' past history which concerned her.

The tenants do not dispute that they denied access for these repairs, stating that the landlord took possession on December 22, 2017, and despite having ample time, did not begin repairs until the tenants had requested them in February of 2018. The tenants testified that the landlord has approached the repairs in a manner that was intrusive to their lives, and posed as a hazard to their health.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that 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 interests 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;*
- *engaged in illegal activity that 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;*
- *engaged in illegal activity that 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, the tenant 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.

The reasons cited in the landlord's application would need to be supported by sworn testimony and/or written, photographic or video evidence in order to qualify for the first part of section 55 of the *Act*. The landlord submitted, in evidence photos, of the property, as well as text messages in support of their belief that the tenants posed an immediate risk or danger to the landlord, and the landlord's property.

The landlord has not issued any notices to end tenancy for cause pursuant to section 47 of the *Act*. This would be the usual first step for a landlord seeking an early end to tenancy. The landlord, in her application, is attempting to obtain an early end to tenancy as she believes the tenants posed a risk or danger to the landlord and landlord's property.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered. In this case, I find that the landlord's application falls well short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

I find that the landlord's failure to pursue an Order of Possession pursuant to a 1 Month Notice does not automatically qualify them to apply under section 56 of the *Act*. Although the landlord expressed concern about the tenants' behaviour, I find that the landlord failed to provide sufficient and compelling evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause to be unreasonable or unfair. For these reasons, I dismiss the landlord's application for an early end to this tenancy.

As the landlord was unsuccessful in this application, I dismiss the landlord's application to obtain the recovery of his filing fee from the tenants.

Conclusion

I dismiss the landlord's application in its entirety. This tenancy continues until ended in accordance with the *Act*.

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 16, 2018

Residential Tenancy Branch