



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COW PONY EQUESTRIAN
and [tenant name suppressed to protect privacy]

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.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The corporate landlord was represented by its agents. The agent JR (the "landlord") primarily spoke for the landlord (the "landlord"). The co-tenant HP (the "tenant") primarily spoke on behalf of both co-tenants.

As both parties were in attendance I attempted to confirm service. The tenant disputed they were served with the landlord's application saying that they were unable to pick up registered mail from Canada Post. The landlord testified that they sent the application package by registered mail and provided a Canada Post tracking number. While the tenants submit that they were not served with the landlord's materials, as the landlord provided evidence that the materials were sent in accordance with the Act by registered mail, I find that the tenants were deemed served in accordance with sections 88, 89 and 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?
Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The parties agreed on the following facts. This tenancy began in December, 2017. The monthly rent is \$1,300.00 payable on the first of each month. The rental unit is on the same property as the landlord.

The landlords submit that the tenants provided false information when applying for the tenancy, specifically stating that they had no criminal record. The landlord testified that since the tenancy

began they have been informed by the local police and community members that the tenants are “sketchy” and dangerous. The landlord said that they were advised by the police to avoid engaging with the tenants.

The landlord testified that they believe the tenants are involved in criminal activity. The landlord said they have observed the tenants coming and going from the rental unit at all hours and moving about in the darkness using flashlights. The landlord said that they have no evidence of illegal activity but believe the behaviour to be suspicious.

The landlord said that the tenants have caused damage to the property by driving their vehicle on the grounds and running into a fence. The landlord submitted into written evidence some photographs of the rental property.

The landlord said that they operate a client-based business on the property and several clients have withdrawn their business upon learning the identity of the tenants. The landlord said that the tenants have sent threatening text messages and there have been aggressive confrontations. The landlord looked up the tenants on the provincial courts hearing list and found several proceedings in which the tenants are involved.

The tenants dispute the landlords’ evidence. The tenant testified that they have not been involved in illegal activity and that they come and go at all hours due to their work schedule. The tenant explained that they are outside at night to walk their dog. The tenant disputed that there have been any threats made. While the tenant acknowledged that there may have been disagreements with the landlords they dispute that there have been any violent or overly aggressive confrontations on their part.

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.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

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.

Based on the testimony of both parties and my review of the written evidence, I find that the landlord has failed to prove that any of the circumstances described above exist such that it would be unreasonable or unfair to the landlord or other tenants to serve the tenant with a notice to end tenancy under section 47 of the *Act* and wait for that notice to take effect.

The landlord's evidence consists primarily of conjecture, concerns and unsubstantiated rumors in the community. I do not find the submission of list of court proceedings involving the tenants to be persuasive. The landlords testified that these proceedings were unknown to them and they did not arise from actions during this tenancy. There is no evidence that the tenant's past and current legal proceedings have impacted this present tenancy or endangered the landlord's interests. I do not find the list of proceedings to be sufficient to conclude that the tenants have engaged in illegal activity that is likely to jeopardize the interests of the landlord.

I find that the landlords' testimonies to be insufficient to conclude that the tenants have engaged in any of the activities outlined above. The landlords claim that they were informed by the police and community members of the dangers posed by the tenants but provided no sworn statements or witnesses. The landlord testified that they have lost income as several clients have withdrawn their business when they were informed that the tenants resided on the property. I find that there is insufficient evidence in support of the landlord's claim. The landlord said that there have been threatening text messages but none were submitted into documentary evidence. The landlord testified that the tenants caused damage to the property by driving their vehicle on the grounds but I find that the nature of the damage to not meet the definition of "extraordinary damage".

Based on the evidence submitted by the parties I find, on a balance of probabilities that the landlord has not shown that the tenant's actions or negligence has given rise to a reason for this tenancy to end. Additionally, I find there is insufficient evidence to conclude that the tenant poses a risk to the landlord's property such that it would be unreasonable to wait until a notice to end tenancy pursuant to section 47 of the Act could take effect.

Conclusion

The landlord's application is dismissed without leave to reapply.

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: May 10, 2018

Residential Tenancy Branch