



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on April 12, 2018 (the "Application"). The Landlord applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the "Act"). The Landlord also sought reimbursement for the filing fee.

The Landlord appeared at the hearing. The Landlord is one of two owners of the motel that this dispute relates to. The co-owner of the motel also appeared at the hearing. Due to a language barrier, the Landlord translated for the co-owner when necessary. The hearing process was explained to the Landlord who did not have questions when asked. The Landlord was given an opportunity to present relevant oral evidence, make relevant submissions and ask relevant questions. The Landlord and co-owner (the "Landlords") provided affirmed testimony.

The Tenant did not appear at the hearing. The Tenant had not submitted evidence.

The Landlord submitted a tenancy agreement, photos and a One Month Notice to End Tenancy for Cause as evidence. I addressed service of the hearing package and Landlord's evidence. The Landlord said she handed the hearing package and evidence to the Tenant personally on April 18, 2018. The Landlord said she told the Tenant the package related to the dispute hearing and the Tenant took the package. Based on the undisputed testimony of the Landlord, I find the hearing package and evidence was served on the Tenant in accordance with sections 88(a) and 89(2)(a) of the *Act* and rules 3.1, 3.2 and 3.14 of the Rules of Procedure (the "Rules"). I proceeded with the hearing in the absence of the Tenant.

I have considered all documentary evidence and oral testimony of the Landlords but have only referred to the evidence I find relevant in this decision.

Issue to be Decided

1. Should the Landlord be granted an order ending the tenancy early pursuant to section 56 of the *Act*?

Background and Evidence

The Landlords provided affirmed testimony throughout the hearing; however, all oral testimony was told to me by the Landlord given the language barrier in relation to the co-owner. Below is an outline of the oral testimony as told to me by the Landlord.

The Landlord said the property is a motel. The Landlord said the tenancy agreement submitted as evidence does not accurately represent the agreement between the Landlord and the Tenant. The Landlord said the agreement was completed by the Tenant because he needed money from the Ministry to pay rent and the Ministry required a tenancy agreement. She said the Tenant asked her to sign the agreement. The Landlord said she had never completed a tenancy agreement before.

The Landlord said the Tenant lives at the motel. The Landlord said the Tenant said he needed to find an apartment or house and needed to stay at the motel temporarily for one month. She said the Tenant then brought her the tenancy agreement which said the Tenant would stay three months. She said the Tenant said the Ministry required a three-month agreement. She said the Tenant moved in December 20, 2017. The Landlord said the Tenant is not staying at the motel for travel or vacation purposes.

The Landlord said the agreement originally was that the Tenant would pay \$966.00 every four weeks for the room. She then said the agreement was that the Tenant pay on the 20th of each month. The Landlord said, starting March 1, 2018, the agreement was that the Tenant pay on the first of each month. She said the Tenant paid a security deposit of \$423.00 in installments between December of 2017 and February of 2018. She said she still has the security deposit. The Landlord said she signed the tenancy agreement submitted as evidence on January 3, 2018. She said only the Tenant signed the agreement despite there being two signatures under the heading of tenant on the signature page. She said the Tenant signed the agreement January 1, 2018. The Landlord confirmed the agreement only relates to the Tenant.

The Landlord testified about numerous issues the Landlords have had with the Tenant. She said the Tenant is violent. She said the Tenant is mean and rude. She said the

Tenant uses a violent voice non-stop. She said the Tenant yells at her. She said the Tenant has not paid rent for two months.

The Landlord testified that the Tenant is very loud. She said the Tenant uses a hammer on the table and walls of the room at midnight. She said the Tenant has used a chainsaw in the room. She said the Tenant is loud and disturbs customers almost every day.

The Landlord testified that the Tenant has broken the table, bed and front door lock in the room. She said the Tenant's room is very messy and there is garbage everywhere.

The Landlord testified that she has called the police about the Tenant five or six times. She said police attended and took the Tenant away each time. The Landlord did not know if the Tenant had been charged with an offence in relation to these incidents. She said the Tenant has said he does not care about the police.

The Landlord testified about an incident where police were called. She said there were loud voices. She said a customer came to the office asking what happened. She said she went to the Tenant's room and saw the Tenant fighting with someone. She said the Tenant's finger was bleeding. She said she called police. She said the police came and took the Tenant away.

The Landlord said police called the office one time looking for the Tenant and asked to be contacted if the Tenant was observed. She said she saw the Tenant and called the police as requested. She said the police attended the motel. She did not know why the police wanted to speak with the Tenant.

The Landlord said the remaining times she called police were due to the Tenant fighting. She said the Tenant has numerous visitors. She said the Tenant is loud and violent with these visitors and that physical and verbal fights occur. She said this happens almost every day. She said she tried to talk to the Tenant about this but he does not listen or care.

The Landlord said the Tenant uses drugs in the laundry room. She said the laundry room is communal. She said the laundry room is locked and requires a key. She said when the Tenant returns the key to her, she checks the laundry room. She said she found a needle on the ground in the laundry room two or three times. She said she knows these were drug needles because of experience with other tenants who used drugs.

The Landlord said the Tenant uses drugs in his room. She said she can tell from his behaviour that he is using drugs. The Landlord said the Tenant has visitors over that are doing drugs and she knows this because of their behaviour. She said she knows what is in the Tenant's room because they go in every week to change the sheets and clean the room. She said she has observed drug needles and powdered drugs on the table and bed. She pointed to the photos submitted as evidence. She said the photo labelled "BEDROOM" shows needles and powdered drugs on the bed. She said the photo labelled "BEDROOMTABLEHEBROKEN" shows powdered drugs on the table.

The Landlord said the Tenant has not done anything to customers. She said the Tenant has not done anything to the Landlords other than be rude.

The Landlord said the Tenant's behaviour makes it so they cannot do business. She said customers feel unsafe and are scared. She said customers have called the Landlords at midnight because they are scared and can hear the Tenant. She said customers are leaving early and requesting refunds because of the Tenant's behaviour. She said the Tenant is damaging the reputation of the motel. She said she has not submitted complaint letters from customers because the complaints have been verbal. The Landlord said the Landlords do not know what will happen next with the Tenant. She said the Landlords feel unsafe. She said the property is at risk because the Tenant has broken furniture and the lock on the front door of the room.

Analysis

Policy Guideline 27 deals with jurisdiction of the Residential Tenancy Branch (the "Branch") to decide matters. In relation to hotel tenants, the policy guideline states at page three:

Occupancy of a hotel is a license and if occupied pursuant to a tenancy agreement, the *Residential Tenancy Act* assumes jurisdiction and confers power upon the Residential Tenancy Branch over certain hotels and hotel tenants. The Residential Tenancy Branch will therefore hear the dispute if the tenant is a hotel tenant under a tenancy agreement.

Based on the testimony of the Landlord about the agreement between her and the Tenant regarding the Tenant staying at the motel, I find the Landlord and Tenant entered into a tenancy agreement as defined in section 1 of the *Act*. Pursuant to Policy Guideline 27, I find the Branch has jurisdiction over this matter. I accept the undisputed

testimony of the Landlord that the motel room was not occupied by the Tenant as vacation or travel accommodation but as his residence; therefore, section 4 of the *Act* does not preclude jurisdiction in these circumstances.

Pursuant to section 56 of the *Act*, I have the authority to make an order ending the tenancy early if I am satisfied of two things. First, that the Tenant has done one 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;

...

Second, that requiring the Landlords to wait for a One Month Notice to End Tenancy for Cause under section 47 of the *Act* to take effect would be unreasonable or unfair.

I accept the undisputed testimony of the Landlord that the police have been called in relation to the Tenant five or six times and that the police attended the motel each time. I accept the undisputed testimony of the Landlord that the police were called four or five times because the Tenant got into a verbal or physical fight with his visitors. I accept the undisputed testimony of the Landlord that the police took the Tenant away each time they were called regarding this fighting. I accept the undisputed testimony of the Landlord that fights between the Tenant and his visitors are occurring almost every day.

Based on the above, I find the Tenant has unreasonably disturbed customers of the motel and the Landlords. I find that having visitors over and proceeding to get into verbal and physical fights with them such that the police need to be called four or five times during a five-month tenancy amounts to an unreasonable disturbance.

Further, I accept the undisputed testimony of the Landlord that on two or three occasions she found a drug needle on the ground of the communal laundry room after the Tenant had used the laundry room. I also accept the undisputed testimony of the Landlord that she has observed drug needles in the Tenant's room. I am satisfied on a balance of probabilities that the drug needles found in the laundry room were the Tenant's drug needles given that he has drug needles in his room, the laundry room is locked and the Landlord checked the laundry room after the Tenant returned the key.

I find leaving drug needles in a communal laundry room does seriously jeopardize both the health and safety of the Landlords and customers of the motel.

I accept the undisputed testimony of the Landlord regarding the affect the Tenant's behaviour has had on the motel customers, Landlords and business. I accept that customers have told the Landlord they feel unsafe and scared and that customers are leaving the motel earlier than planned due to the Tenant's behaviour. I also accept the Landlord's testimony that the Landlords feel unsafe due to the Tenant's behaviour.

I am satisfied it would be unreasonable and unfair to the Landlords to require them to go through the usual process of seeking an order under section 55 of the *Act* based on a One Month Notice to End Tenancy for Cause under section 47 of the *Act*. I find this because the Tenant is having visitors over and proceeding to get into verbal and physical fights with them almost every day. This behaviour has already required police to attend and remove the Tenant from the motel four or five times during a tenancy that only started five months ago. Further, the Tenant is leaving drug needles in a communal space and, based on the undisputed testimony of the Landlord, the Tenant is continuing to use drugs. In my view, this is an urgent situation that justifies ending the tenancy earlier than it would be ended under section 55 of the *Act* pursuant to a One Month Notice to End Tenancy for Cause.

Based on the above, and pursuant to section 56(2) of the *Act*, I order the tenancy ended as of the date of this decision. I grant the Landlord an Order of Possession effective two days after service on the Tenant.

Given the Landlord was successful in this application, I award reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*. Pursuant to section 72(2) of the *Act*, I authorize the Landlord to retain \$100.00 from the security deposit paid by the Tenant under the tenancy agreement.

Conclusion

Pursuant to section 56(2) of the *Act*, I order the tenancy ended as of the date of this decision. I grant the Landlord an Order of Possession effective two days after service on the Tenant. The Order must be served on the Tenant. If the Tenant fails to vacate the rental unit in accordance with the Order, the Order can be filed in the Supreme Court and enforced as an order of that court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: May 22, 2018

Residential Tenancy Branch