



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

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 of the *Act*.

While the landlord attended the hearing by way of conference call, the tenants did not. I waited until 11:12 a.m. to enable the tenants to participate in this hearing scheduled for 11:00 a.m. The landlord was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that he had served both tenants with his application and evidence by way of registered mail on May 28, 2018. The landlord provided tracking numbers in the hearing. In accordance with sections 88, 89, and 90 of the *Act*, I find both tenants deemed served with the landlord's application and evidence on June 2, 2018, five days after mailing.

Issues(s) to be Decided

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

Background and Evidence

This month-to-month tenancy began on September 1, 2017. Monthly rent is set at \$1,600.00, payable on the first of the month. The tenants paid a \$800.00 security deposit for this tenancy, which the landlord still holds.

The landlord testified that on April 1, 2018, with monthly rent set at \$1,699.00, payable on the first of the month. The landlord testified that the tenants have failed to pay the security deposit of \$849.50 after the payment they made was returned as non-sufficient funds by the bank.

The landlord is seeking an early end to this tenancy as the landlord has received multiple complaints about the tenants. The landlord testified that the home is a four-plex, and the tenants' residence has been attended to by the police on multiple occasions, sometimes several times a week. The landlord testified that the tenants' children have been removed due to the incidents that have taken place.

The landlord testified that the other occupants in the four-plex are afraid, and concerned for their safety. The landlord testified that witnesses are afraid to provide testimony as they are afraid.

The landlord testified that the tenants have also failed to pay rent, and the landlord issued a 10 Day Notice on May 3, 2018. The landlord also issued a 1 Month Notice to the tenants on May 7, 2018, with an effective date of June 30, 2018, due to their behaviour, and for failing to pay the security deposit.

Analysis

The landlord, in his application, requested an Order of Possession on the grounds that the tenants pose a severe and immediate risk to him, other occupants, and the property.

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 of the *Act* for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56 of the *Act*, I need to be satisfied that the tenants have 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 did not submit sufficient documentary evidence, or witness testimony, in his application to support his testimony that the tenants posed a significant or immediate risk to him, other occupants, or the property. I find that his testimony, alone, does not satisfy me that the tenants have engaged in any illegal activity, that the tenants have jeopardized the health or safety of the landlord or other occupants, or that the tenants have significantly disturbed others to the extent that I feel an early end of this tenancy is justified.

The landlord did issue, on May 7, 2018, a 1 Month Notice to End Tenancy pursuant to section 47 of the *Act*. This would be the usual first step for a landlord seeking an early end to tenancy. The effective date of the 1 Month Notice, June 30, 2018, which at the time of this hearing has not yet passed. Section 47 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenants may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. If the tenants fail to dispute the notice within 10 days, the tenants are conclusively presumed under section 47(5) of the *Act* to have accepted that the tenancy will end on the effective date of the notice, June 30, 2018. If the tenants fail to move out, or if the landlord feels that an Order of Possession is necessary, the landlord may apply for an Order of Possession under section 55 of the *Act*.

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.

Although the landlord has testified that there is possible illegal activity that involve controlled drugs and substances, the landlord was unable to confirm that any charges have been laid in relation to this alleged illegal activity. I also find that although the landlord and other occupants are concerned for their safety, I find that the evidence is not sufficient for me to make a finding that the tenants have engaged in behaviour that has jeopardized the health or safety of the landlord or other occupants.

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.

Conclusion

I dismiss the landlord's application 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: June 27, 2018

Residential Tenancy Branch