



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.

While the landlord attended the hearing by way of conference call, the tenant did not. I waited until 11:10 A.M. to enable the tenant to participate in this scheduled hearing 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 served the tenant with his application and evidence on May 11, 2018 by posting the documents on the tenant's door. In accordance with sections 88, 89, and 90 of the Act, I find the tenant deemed served with the application and evidence on May 14, 2018, three days after posting.

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 in April 2016 with monthly rent set at \$650.00, payable on the first of the month. The landlord collected, and still holds, a security deposit in the amount of \$325.00 for this tenancy.

The landlord is seeking an end of this tenancy on the grounds that the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord. The landlord testified that the hydro has been cut off to the tenant's unit, and the tenant has been using extension cords attached to outlets in the common hallway and outside his window. The landlord provided photos in his evidence, as well as a signed statement from a witness and text message in support of his application.

The landlord had issued the tenant a 10 Day Notice to End Tenancy for unpaid rent on May 1, 2018 as the tenant has failed to pay outstanding rent for several months.

The landlord is seeking an end to this tenancy as he believes the tenant poses an immediate risk to his property.

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 a statement and text message, in support of the fact that the tenant has extension cords attached to outlets in the common areas of the property. The landlord testified that he had received reports from neighbours of the tenant's behaviour, and believes that this behaviour posed a severe and immediate risk to his property.

Although the landlord issued the tenant a 10 Day Notice to End Tenancy for Unpaid Rent, the landlord did not issue 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 his application, is attempting to obtain an early end to tenancy as he believes the tenant poses an immediate risk to his 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.

Although I find that the landlord believes that the tenant poses a danger to his property, the landlord did not make an application for an Order of Possession pursuant to a 1 Month Notice to End Tenancy for Cause. 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 over the tenant's 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.

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 6, 2018

Residential Tenancy Branch