



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CALEDONIA REALTY LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing was scheduled for 11:00 a.m. on this date, via teleconference call, to deal with a landlord's application for an order to end the tenancy early and obtain an Order of Possession pursuant to section 56 of the Act. The landlord was represented by an agent; however, there was no appearance on part of the tenant.

The landlord's representative testified that the proceeding package was sent to the tenant via registered mail on June 22, 2018 and the registered mail was successfully delivered to the tenant on June 27, 2018. The landlord provided the registered mail receipt, including tracking number, as proof of service and a search of the tracking number confirmed the landlord's testimony to be accurate. I was satisfied the tenant was duly served with notification of this proceeding and I continued to hear from the landlord without the tenant present.

Issue(s) to be Decided

Has the landlord established that the tenancy should end early and the landlord be provided an Order of Possession pursuant to section 56 of the Act?

Background and Evidence

The tenancy started on March 1, 2016 and the landlord collected a security deposit of \$400.00. The tenant is required to pay rent of \$800.00 on the first day of every month. The rental unit is on the basement level of a multiple-unit building occupied by other tenants.

The landlord submitted the reasons for seeking an early end of tenancy are:

- The landlord had been receiving complaints from other tenants about the smell of smoking drugs coming from the rental unit, most likely crack, and recently received evidence of it by way of a video taken by another tenant;
- The video shows the tenant lying on a mattress covered in blankets holding a lit lighter to what appears to be a crack pipe;
- The landlord inspected the unit in May 2018 and found the unit significantly damaged; especially the entry door that had a large hole from what appears to be people kicking in the door;
- The landlord went to inspect the unit again on June 12, 2018 and when he attempted to enter he found the locks had been changed and the landlord could not gain entry;
- There has been frequent police presence at the rental unit including responses to assaults, including a severe beating of the tenant by a man the tenant has permitted to occupy the rental unit, that could be heard by other tenants;
- The other tenants in the building are very fearful for their health and safety given the drug use, assaults and violence of the tenant and person(s) permitted on the property by the tenant.

The landlord also pointed out that after serving the tenant with the hearing package the tenant has not paid rent for July 2018. The landlord understands from other tenants that the tenant is still occupying the rental unit. The landlord seeks an early end of tenancy due to the serious risk and disturbances to other tenants of the property.

Analysis

Section 56(2) of the Act permits an Arbitrator to order an early end to a tenancy and provide the landlord with an Order of Possession where it would be unreasonable to wait for the effective date of a 1 Month Notice to End Tenancy for Cause if one had been issued. Section 56(2) provides that a tenancy may be ended early where:

- (a) the tenant or a person permitted on the residential property by the tenant has done any 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;
 - (iii) put the landlord's property at significant risk;

- (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) 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, or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) caused extraordinary damage to the residential property, and
(b) it would be unreasonable, or unfair to the landlord 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.

[My emphasis added]

The landlord bears the burden to prove the tenant, or persons permitted on the property by the tenant, has acted in such a way as to warrant an order to end the tenancy earlier than by way of a 1 Month Notice. The burden is high as this provision is intended to apply in the most severe circumstances.

Base on the unopposed evidence before me, I accept that the tenant, or a person permitted on the property by the tenant, has unreasonably disturbed other occupants of the property by the smells of illegal drug use and sounds of violence; and seriously jeopardized the health or safety of other occupants by smoking drugs on a mattress and permitting violent persons to occupy the rental unit. I also accept that the tenant, or persons permitted on the property by the tenant, has significantly damaged the property and that changing of the locks to the rental unit has also significantly interfered with the landlord's ability to enter the unit especially in case of an emergency. Therefore, I grant the landlord's request for an Order of Possession under section 56 of the Act.

Provided to the landlord with this decision is an Order of Possession effective two (2) days after service upon the tenant.

I award the landlord recovery of the \$100.00 filing fee paid for this application. The landlord is authorized to deduct \$100.00 from the tenant's security deposit in satisfaction of this award.

Conclusion

The landlord is provided an Order of Possession effective two (2) days after service upon the tenant. The landlord may deduct \$100.00 from the tenant's security deposit to recover the filing fee paid for this application.

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: July 19, 2018

Residential Tenancy Branch