



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

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;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing via conference call and provided affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence to the tenant in person on June 27, 2018. The landlord stated that a proof of service document was provided for this, but a review of the landlord's documentary evidence and extensive discussions on the document led to an unsuccessful search for this document. The only reference found that was close was an incomplete proof of service document for the 1 Month Notice which was not signed. During the hearing the landlord had clarified that the submitted 1 Month Notice dated June 30, 2018 was not served to the tenant. I accept the undisputed affirmed testimony of the landlord and find that the tenant was personally served with the notice of hearing package and the submitted documentary evidence in person on June 27, 2018 and again on July 4, 2018 as claimed. I find that this is sufficient that the landlord properly served the tenant as per section 90 of the Act.

Issue(s) to be Decided

Is the landlord entitled to an early end to tenancy and an order of possession?

Is the landlord entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord claims that the tenant is "a high risk threat to landlords, family and co-renter's life. As he is a drug addict and had already acted with physical/verbal abuse on June 4, 5, 21, 24, 2018."

The landlord has submitted in support of this claim:

- a copy of a business card from a police officer and
- a copy of an email, dated July 3, 2018, re: additional substantial report
- a copy of a Doctor's Note dated July 2, 2018
- a copy of a 1 Month Notice to End Tenancy for Cause dated June 30, 2018
- a copy of 4 additional page(s) for reasons for cause
- a copy of an incomplete proof of service document for a 1 Month Notice dated June 30, 2018
- copies of 4 photographs, re:furniture and items in common room and garbage/recycling cans

The landlord confirmed that a complaint report was filed with the local police and a record made. The landlord stated that the police have since tried to contact the tenant without any success. The landlord is unaware of any further action by the police.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord's property;

- 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
 - 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.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be “unreasonable or unfair” to wait for a cause notice to take effect.

I accept the undisputed affirmed testimony of the tenant and find that the submitted 1 Month Notice dated June 30, 2018 was not served upon the tenant. As such, the landlord’s request proceeded.

The landlord provided many general details that the tenant was verbally and physically aggressive to the landlord, but that no actual assault took place. The landlord claimed that the tenant threatened the landlord stating, “do you know about the Arbitration on July 25?” The landlord confirmed that a report was filed with the local police, but that no subsequent action has been taken other than to attempt for the police to contact the tenant.

The landlord claimed that there was a fire hazard and referred to the photograph of an ashtray with burnt ashes. The landlord claims that the tenant conducts illegal garage sales and that between the burnt ashes and the many items that the tenant brings home that there is a fire hazard. The landlord provided photographs of furniture in a basement common area and of some garbage/recycling cans. A review of the photographs shows no indication of a fire hazard. The landlord confirmed that the local fire authority has not been contacted.

In reviewing the undisputed affirmed testimony of the landlord, I find that the landlord has failed to provide sufficient evidence of a high risk threat to the landlord. I also find that the landlord has failed to provide sufficient evidence of any physical/verbal abuse that would constitute justification to an early end to the tenancy. The landlord’s claim of

a fire hazard is unsubstantiated as she relies solely on a picture of burnt ashes in an ash tray. In conclusion I find that these details are insufficient to obtain an early end to the tenancy.

Conclusion

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

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 27, 2018

Residential Tenancy Branch