



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlords under the *Residential Tenancy Act*, (the “*Act*”), for an early end of tenancy pursuant to section 56 of the *Act* and an order to recover the cost of filing the application from the Tenants. The matter was set for a conference call.

The Landlords attended the hearing. The Landlords were affirmed to be truthful in their testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. The Landlords testified that the documents were personally served to the Tenant at the rental unit. I find that the Tenants have been duly served in accordance with the *Act*.

The Landlords were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

- Is the Landlord entitled to an early end of tenancy and an Order of Possession?
- Is the Landlord entitled to recover the filing fee for this application?

Background and Evidence

The tenancy agreement shows that the tenancy began on May 1, 2018, as a one-year fixed term tenancy. Rent in the amount of \$2,300.00 is to be paid on the first day of each month and the Tenants paid the Landlords a \$1,150.00 security deposit.

The Landlords testified that they had received several noise complaints from the neighbours and the Strata regarding the Tenants. The Landlords provided two videos and two warning letters they received from the Strata into documentary evidence.

The Landlords testified that the police had been called to the rental property due to excessive noise coming from the rental unit. The Landlords provided an email string between the Strata and a resident of the building, that shows the complaint history, into documentary evidence.

The Landlords provided a witness, the Strata Building Manager, who testified that the Tenants have been a problem since they moved in and that there have been daily noise complaints from the other residents in the building. The Building Manager also testified that he confronted the Tenants on one occasion, regarding them smoking in a common area, and that the Tenants threatened him and said that they would do whatever they want.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to tenancy and 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.

An application for an early end of tenancy is an exceptional measure, to be taken only when a landlord can show that it would be unreasonable or unfair for the landlord or other occupants to allow the tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I must 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 interest 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, or
- Engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- Engaged in illegal activity that caused extraordinary damage to the residential property.

In this case, while the Tenants conduct may have been disturbing to others, I find the circumstance of this case are not so significant or severe that it would have been unreasonable for the Landlords to have to wait for a One Month Notice to take effect if there was sufficient cause to end the tenancy. Therefore, I find that the Landlords did not satisfy me that this tenancy should end early under section 56 of the *Act*.

Therefore, I dismiss the Landlord's application for an early end of tenancy under section 56 of the *Act*, as I find it neither unreasonable or unfair that the Landlord would need to wait for a One Month Notice to take effect and for the required hearing process under that notice.

As I have dismissed the Landlord's application, the Landlord is not entitled to recover the filing fee.

Conclusion

I dismiss the Landlord's application for an early end of tenancy and to recover her application fee. 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: September 18, 2018

Residential Tenancy Branch