



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 an Application for Dispute Resolution by the landlord for an early end to tenancy and obtain an order of possession and to recover the filing fee.

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on November 6, 2018, a Canada post tracking number was provided as evidence of service. The Canada post track history shows the tenant refused to accept the package on November 9, 2018. Refusal to pick up the package does not override the deemed service provision under the Act.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the tenant has been duly served in accordance with the Act.

Issue to be Decided

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

Background and Evidence

The tenancy commenced in 2016. Rent in the amount of \$950.00 was payable on the first of each month. A security deposit of \$425.00 was paid by the tenant.

The landlord testified that they want to end the tenancy due to incidents that have occurred going back approximately 18 months.

The landlord testified that the first incident was approximately 18 months ago at approximately 10 am, when their child informed them that there was something going on at the tenant's unit because the door was open. The landlord stated that they found the tenant passed out and they thought the tenant could be dead from a drug overdose. The landlord stated that they called 911 and the paramedics attended.

The landlord testified that a few months later, it happened again; however, the tenant was outside the rental unit and they were scared the tenant would be injured themselves by going through the glass as they were passed out leaning against it.

The landlord testified that on August 7, 2018, there was a gentleman outside the tenant's rental unit sitting with a bottle of booze. This male indicated that the tenant took off with his car. The landlord stated that when the tenant arrived back, the tenant and the male started fighting and the tenant bit the male. The landlord stated that they had to run down to the tenant's unit and break up the fight.

The landlord testified that in September 2018, the police attended looking for the tenant because they believed the tenant was using stolen credit cards.

The landlord testified that the tenant lost their keys and they had two men try to break the door; however, they ended up using an angle grinder to break the lock so the tenant could gain access. The landlord stated that the tenant knew that they could contact them anytime because they have an extra key.

The landlord testified that recently there is drinking, yelling and fighting.

Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or
 - 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 rental unit or residential property;
- b) And 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 to take effect.

I accept the undisputed evidence of the landlord. The landlord referred to incidents that have occurred over the last 18 months. While I am satisfied that the landlord may have grounds to end the tenancy under Section 47 of the Act; however, I am not satisfied that it would be unfair to landlord and the other occupants of the rental unit to wait for a 1 Month Notice to take effect.

Therefore, I dismiss the landlord's application to end the tenancy earlier and obtain an order of possession. Since the landlord was not successful with their application I decline to award the cost of the filing fee.

Conclusion

The landlord's application is dismissed.

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: November 30, 2018

Residential Tenancy Branch