



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 the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and the issuance of an Order of Possession pursuant to section 56; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties confirmed that they had exchanged their documentary evidence with each other.

Issue(s) 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 from the tenant?

Background and Evidence

The landlord gave the following testimony. The landlord testified that the tenancy began on November 15, 2017. The current monthly rent is \$2900.00 per month for the five bedroom unit. At the outset of the tenancy the tenant provided a security deposit of \$1450.00 which the landlord still holds. The landlord testified that he seeks to end the tenancy early and requests an order of possession for the following reasons; the tenant smokes in the unit which is in violation of their tenancy agreement, the tenant has

threatened the landlord and other tenants on numerous occasions, the tenant has numerous men living in the suite, the tenant has wilfully damaged appliances and that the tenant poses a significant threat to property and people. The landlord testified that the most significant occurrence happened in October 2018 when he was in the unit fixing a dishwasher and the tenant threatened him that required the police to attend.

The tenant gave the following testimony. The tenant adamantly disputes the landlords' allegations. The tenant testified that he did smoke in the unit one time but that was resolved back in May 2018. The tenant testified that the landlord is the one that is aggressive in his behaviour and threatening. The tenant testified that only when he started "standing up for myself", the landlord wanted the tenancy to end. The tenant testified that he wishes to remain in the unit.

Analysis

The landlord submitted some documentation for this hearing. The landlord feels that the police incidents alone merit him being granted an order of possession. It is worth noting, the landlords documentary evidence was limited in its content, clarity and detail.

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.

In this case, I am not satisfied that the landlord has met the second part of the test by showing that it would be unreasonable or unfair for a one month Notice to End Tenancy to take effect. I am satisfied that there *may* be cause to end this tenancy pursuant to Section 47 of the Act; however, I do not find it is unfair or unreasonable for the landlord to wait for a one month Notice to End Tenancy to take effect.

Conclusion

The landlords' application is dismissed in its entirety. The tenancy continues.

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: January 08, 2019

Residential Tenancy Branch