



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DOGWOODS HOLDINGS SOCIETY
and [tenant name suppressed to protect privacy]

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 an Order of Possession pursuant to section 56; and authorization to recover the filing fee for this application, pursuant to section 72.

MH and MR attended the hearing on behalf of the landlord in this hearing. 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 tenant confirmed receipt of the landlord's dispute resolution application ('Application') and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the tenant was duly served with the Application and evidence. The tenant did not submit any written evidence for this hearing.

Issues(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

This month-to-month tenancy began sometime in the summer of 2018. The tenant was officially added to the tenancy agreement in October of 2018. Monthly rent is set at \$910.00, payable on the first of the month.

The landlord's agents testified in this hearing as well as two witnesses. The landlord is seeking an early end to this tenancy. The landlord testified that the tenant and the tenant's guests have exhibited threatening and unacceptable behaviour towards the

managers, which have included both verbal and physical violence. The landlord's witness AB testified that on February 20, 2019, that they had seen a guest of the tenant being verbally and physically abusive towards management. The witness testified that she had a video tape of the incident, which was not entered as evidence. The landlord is concerned that this is an ongoing issue.

The landlord's agents testified that the tenant would be extremely confrontational when they had attempted to address the issue, and this resulted in a warning letter and 1 Month Notice being issued to the tenant on February 20, 2019. The landlord had included the letter in evidence, but a copy of the 1 Month Notice was not provided.

BG testified as a witness in the hearing, and testified that he had attended the rental unit on February 20, 2019 to deliver the letter to the tenant, and was pushed by the tenant.

The tenant testified that he was unaware of all these incidents with the exception of the incident that took place when two parties came to pick up the tenant's daughter in a pickup truck. The tenant testified that the altercation was started by the managers, which escalated the situation.

Analysis

The landlord, in their application, requested an Order of Possession on the grounds that the tenant and his guests have acted in a threatening manner, and continues to do so.

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 of the *Act* for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56 of the *Act*, I need to be satisfied that the tenants have 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.

The reasons cited in the landlord's application would need to be supported by sworn testimony and/or written, photographic or video evidence in order to qualify for the first part of section 55 of the *Act*. The landlord called witnesses, as well as submitted in evidence, letters in support of their testimony that the tenant and his guests pose an immediate risk or danger to the landlord.

Although the landlord testified to the issuance of a 1 Month Notice to End Tenancy for Cause pursuant to section 47 of the *Act*, the landlord has not applied for an Order of Possession pursuant to this 1 Month Notice. The landlord, in their application, is attempting to obtain an early end to tenancy as they believe the tenant has acted in a threatening manner even when they had tried to deliver the 1 Month Notice and warning letter to the tenant.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered. In this case, I find that the landlord's application falls well short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

Although the landlord issued a 1 Month Notice for Cause on February 20, 2019, the landlord did not make an application for an Order of Possession pursuant to that 1 Month Notice. Although the landlord provided witness testimony about the tenant's behaviour, the tenant provided contradictory evidence that the landlord had started the

altercations that took place. In light of the contradictory evidence, I am not satisfied that the landlord provided sufficient evidence that the behaviour of the tenant or his guests is significant or serious enough to justify the early end of this tenancy.

I find that the landlord's failure to pursue an Order of Possession pursuant to the 1 Month Notice issued on February 20, 2019 does not automatically qualify them to apply under section 56 of the *Act*. I find that the landlord failed to provide sufficient and compelling evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause to be unreasonable or unfair. For these reasons, I dismiss the landlord's application for an early end to this tenancy.

As the landlord was not unsuccessful in this application, I dismiss the landlord's application to obtain the recovery of his filing fee from the tenant.

Conclusion

I dismiss the landlord's application in its entirety. 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: April 24, 2019

Residential Tenancy Branch