



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord seeking an Order of Possession ending the tenancy earlier than a notice to end the tenancy would take effect, and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing and gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call. The landlord testified that the tenant was served with the Application for Dispute Resolution, evidentiary material and notice of this hearing by attaching the documents to the door of the rental unit, and has provided a photograph. The *Residential Tenancy Act* permits service in that manner, and I am satisfied that the tenant has been served in accordance with the *Act*.

Issue(s) to be Decided

Has the landlord established that the tenancy should end earlier than a notice to end the tenancy for cause would take effect?

Background and Evidence

The landlord testified that this fixed-term tenancy began on February 8, 2019 expires on February 9, 2020. The landlord is not certain if the tenant still resides in the rental unit. Rent in the amount of \$1,450.00 per month is payable on the 1st day of each month, and arrears have accumulated for part of February as well as rent for March and April, 2019. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$600.00, although the tenancy agreement specifies \$725.00. No pet

damage deposit was collected. The rental unit is a basement suite, and the upper level of the home was also tenanted at the beginning of this tenancy.

The landlord further testified that she served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities on March 7, 2019 by posting it to the door of the rental unit. A copy has been provided as evidence for this hearing, and it is dated March 7, 2019 and contains an effective date of vacancy of March 17, 2019. The reason for issuing it states that the tenant failed to pay rent in the amount of \$1,560.00 that was due on March 1, 2019, and the landlord testified that the amount was pro-rated considering that the tenant moved in on the 8th day of February. The tenant has not disputed the notice and has not paid the rent. Further, the tenant has not paid the utilities as required.

The tenants in the upper level of the rental home have complained about noises and other disturbances, and as a result of the on-going problems, they have vacated.

As a result of the failures to pay rent and utilities, the landlord listed the home for sale. A realtor gave the tenant 72 hours notice to enter, however the tenant had changed the locks. The realtor suggested that police be called. The landlord contacted police and a locksmith, and when they arrived the landlord saw too many single beds and guns on the fireplace from the entrance. Photographs have been provided as evidence for this hearing. The landlord is fearful to be around the area and is concerned for her own safety. Also, police advised the landlord to stay away.

Analysis

The *Residential Tenancy Act* states that I may make an order specifying a date on which the tenancy ends only if I am satisfied that:

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
 - (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;
 - (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 residential property, and

(b) 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 [*landlord's notice: cause*] to take effect.

Given that firearms were in the open and visible from the entrance of the home, and given that the police advised the landlord to stay away from the area, I am satisfied that the tenant has engaged in illegal activity that has or is likely to adversely affected the quiet enjoyment, security, safety and physical well-being of the other occupants, and has or is likely to jeopardize a lawful right or interest of other occupants and the landlord. I also find that it would be unreasonable or unfair to the landlord to wait for a One Month Notice to End Tenancy for Cause to take effect.

I further find that the tenant has not disputed the 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, and has not paid the rent in full within 5 days of service or deemed service.

In the circumstances, I am satisfied that the landlord is entitled to an Order of Possession, and I grant the Order of Possession on 2 days notice to the tenant.

Since the landlord has been successful with the application the landlord is also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the landlord in that amount, and I order that the landlord be permitted to keep that amount from the security deposit or may otherwise recover it.

Conclusion

For the reasons set out above, I hereby grant an Order of Possession in favour of the landlord effective on 2 days notice to the tenant.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$100.00, and I order that the landlord be permitted to keep that amount from the security deposit held in trust, or may otherwise recover it.

This order is final and binding and may be enforced.

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 15, 2019

Residential Tenancy Branch