



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding UNITORO HOLDINGS LTD
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 of tenancy pursuant to section 56; and
- authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 15 minutes. The corporate landlord was represented by its agent MO (the "landlord") who was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that they served the tenant with their application for dispute resolution and evidentiary materials in two packages sent by registered mail on April 10, 2019. The landlord provided two Canada Post tracking numbers as evidence of service. Based on the evidence of the landlord I find that the tenant was deemed served with the landlord's materials on April 15, 2019, five days after mailing, in accordance with sections 88, 89 and 90 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end to this 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 testified that this periodic tenancy began on March 1, 2016. The current monthly rent is \$1,934.00 payable on the first of each month. A security deposit of \$932.50 was paid at the start of the tenancy and is still held by the landlord.

The landlord testified that since about March, 2019 they have received several complaints from the strata corporation for the rental building that the tenant has breached various rules including misusing common area electrical outlets, making excessive noise inside of their suite, pounding on the doors of other residents and throwing furniture out of their 19th floor window. The landlord submitted into documentary evidence various correspondence from the strata and building manager.

Analysis

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.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a 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 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.

I find that the landlord has provided insufficient evidence to show that the conduct of the tenant is such that it would be unreasonable or unfair to the landlord or other occupants to wait for a notice under section 47 to take effect. The correspondence from the strata corporation and building manager mention several issues but I find these to be minor violations such as misuse of electrical outlets or noises from the rental suite. While these may be grounds for issuance of a notice to end tenancy for cause, I find that it does not establish that it would be unreasonable to wait for such a notice to take effect.

I find that there is insufficient evidence in support of the landlord's testimony that the tenant has thrown furniture from their window or have hammered on other occupants' doors. It would be reasonable to expect that if there was an incident of throwing furniture out of a high level window there would be some documentary evidence to show such an incident occurred. While hurling furniture from a window onto the streets below may be a reason for a landlord to end a tenancy, based on the documentary evidence and testimony I find that there is insufficient evidence that such an event took place.

Similarly, the documentary evidence submitted by the landlord in support of their submission that the tenant has hammered on the doors of other residents consists of a single photograph of a door which does not appear to have been significantly damaged beyond the expected wear and tear of a door. In any event I find that one incident of pounding on a door to be insufficient to establish that the landlord is entitled to an early end of the tenancy.

I find the landlord's submission that the tenant has failed to pay the monthly rent to be irrelevant to the matter at hand. I find that the tenant's failure to pay rent does not give rise to a reason for an early end of tenancy and the economic impact on the landlord is insufficient to establish that it is unfair to wait for a proper notice to take effect.

Based on the evidence I find, on a balance of probabilities that the landlord has not shown that the tenant's actions has given rise to a reason for an early end of this tenancy. I find there is insufficient evidence to conclude that the it would be

unreasonable or unfair to wait until a notice to end tenancy pursuant to section 47 of the Act could take effect.

Conclusion

The landlord's application is dismissed in its entirety without leave to reapply.

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: May 2, 2019

Residential Tenancy Branch