



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for an early termination of tenancy and Order of Possession, pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 11:11 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 11:00 a.m. The landlord's agent attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord's agent and I were the only ones who had called into this teleconference.

The landlord's agent testified that the landlord's application for dispute resolution was posted on the tenant's door. I find that the tenant was served with the landlord's application for dispute resolution in accordance with section 89 of the *Act*.

Issue to be Decided

1. Is the landlord entitled to an early termination of tenancy and Order of Possession, pursuant to section 56 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of the landlord's agent, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The landlord's agent provided the following undisputed testimony. This tenancy began on September 7, 2017 and is currently ongoing. Monthly rent in the amount of \$750.00 is payable on the first day of each month. A security deposit of \$375.00 and a pet damage deposit of \$375.00 were paid by the tenant to the landlord.

The landlord's agent testified that the tenant did not pay rent for April, May or June of 2019. The landlord's agent testified that on May 3, 2019 the tenant was incarcerated and has remained in jail since that date.

The landlord's agent testified to the following facts. The tenant left the subject rental property in a filthy condition with dead mice scattered throughout the property. Photographs of same were entered into evidence. Since the tenant was incarcerated, people have been breaking in and partying at the subject rental property causing the police to attend at the subject rental property. The landlord's agent testified that landlord brought this emergency application because the above activity is not good for the neighbors and is not a safe environment. No police reports or other evidence regarding the impact of the subject rental property on the safety of the community were entered into evidence.

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. 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.

An early end of tenancy is an expedited and unusual remedy under the *Act* and is only available to the landlord when the circumstances of the tenancy are such that it is unreasonable for a landlord to wait for the effective date of a notice to end tenancy to take effect, such as a notice given under Section 47 of the *Act* for cause. At the dispute resolution hearing, the landlord or their agent must provide convincing evidence that justifies not giving full notice.

While the state of the subject rental property and the activities alleged to occur at the subject rental property are concerning any may support an Order of Possession based on a One Month Notice to End Tenancy for Cause, I find that the landlord through his agent, has not proved that 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 therefore dismiss the landlord's application without leave to reapply.

Conclusion

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

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: June 20, 2019

Residential Tenancy Branch