



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

ET, FFL

Introduction

On May 21, 2019, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing with B.M. attending as an agent for the Landlord. The Tenant did not make an appearance. All parties provided a solemn affirmation.

The Landlord advised that the Tenant would not answer the door, so she had an RCMP officer serve the Notice of Hearing package by hand on May 21, 2019. The Landlord witnessed this service. Based on the undisputed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served the Notice of Hearing package.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

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?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord stated that the tenancy started on July 1, 2018 and rent was currently \$1,090.00 per month, due on the first of each month. A security deposit of \$500.00 was also paid.

The Landlord made several submissions with respect to being threatened with assault by the Tenant and as a result, the Landlord has stopped living above the Tenant. She stated that the police have attended the rental unit multiple times and that she submitted police file numbers to corroborate this. She advised that the Tenant had broken into her rental unit; however, her witnesses were not available to confirm this statement, and she did not submit any evidence to support this allegation either. As well, the police have not responded to her requests with respect to this investigation. She stated that the SPCA were called to confiscate cats from the rental unit as they were severely neglected. She also stated that there were serious mould issues in the rental unit.

B.M. confirmed the contents of the text where the Tenant threatened the Landlord; however, he was not present to witness any of the verbal threats. He stated that he did not witness the alleged break and enter; however, he overheard a witness provide a statement to the police with respect to them witnessing this alleged incident. He did confirm that he was present when the SPCA removed the cats from the rental unit and advised that they were in deplorable condition. Finally, he submitted that there was a notice left from Social Services and that the Tenant has garbage piled up knee high in the rental unit.

Analysis

Section 56 of the *Act* establishes the grounds for a Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. 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.

When reviewing the totality of the evidence before me, I do not find that the Landlord has provided any persuasive or compelling documentary evidence to support justification for an early end of tenancy. As the burden of proof on an early end of tenancy Application is substantially higher than that of an Application for an Order of Possession for Cause, based on what was presented before me, I am not satisfied that the Landlord has substantiated that the Tenant has engaged in any of the above behaviours and 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 for cause" to take effect.

Under the circumstances described, I do not find that the Landlord has provided sufficient evidence to warrant ending this tenancy early. As such, I find that the Landlord is not entitled to an Order of Possession, and I dismiss this Application in its entirety.

As the Landlord was not successful in this Application, I find that the Landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the Landlord's Application 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 21, 2019

Residential Tenancy Branch