



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 as a result of the Landlord's Application for Dispute Resolution, made on June 19, 2019 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "*Act*"):

- an order of possession to end a tenancy early for immediate and severe risk; and
- a monetary order granting the recovery of the filing fee.

The hearing was scheduled for 9:30 A.M. on July 4, 2019 as a teleconference hearing. A.Y. appeared on behalf of the Landlord and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 11 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that A.Y. and I were the only persons who had called into this teleconference.

A.Y. testified the Application and documentary evidence package was served to the Tenant in person on June 20, 2019. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence on June 20, 2019. The Tenant did not submit documentary evidence in response to the Application.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

A.Y. testified that the tenancy began on December 1, 2017. Currently, the Tenant pays rent in the amount of \$1,300.00 which is due to the Landlord on the first day of each month. A.Y. stated that the Tenant paid a security deposit in the amount of \$650.00 which the Landlord continues to hold. A.Y. stated that the Tenant continues to occupy the rental unit.

A.Y. stated that the Landlord is seeking to end the tenancy early based on the fact that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property. A.Y. stated that the Landlord has received several complaints from other occupants as well as neighbours regarding their concerns with the Tenant's recent behaviour.

A.Y. stated that on April 29, 2019 the Police attended the rental unit in relation a noise complaint. A.Y. stated that the Tenant was found to be intoxicated. A.Y. stated that on May 25, 2019 the Landlord received a complaint from another occupant indicating that the Tenant was intoxicated, being loud and threatening to break a fence. A.Y. stated that on June 3, 2019 the Police attended the rental unit regarding another noise complaint.

A.Y. testified that the Landlord has received other complaints regarding further noise complaints involving screaming, intoxication, and verbal threats, and suspected drug dealing. A.Y. stated that the other occupants and neighbours are concerned about the Tenant's behaviour as it may impact their children who live in close proximity.

A.Y. stated that the Landlord subsequently served the Tenant with a One Month Notice to End Tenancy for Cause, with an effective date of July 31, 2019. A.Y. stated that the Landlord is seeking to end the tenancy earlier than the effective date of the One Month Notice if possible. The Landlord submitted a copy of text message complaints from other occupants in support. The Landlord also submitted two screen shots of videos; however, these could not be viewed as they were only pictures of the video link.

Analysis

Based on the unchallenged and affirmed documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the Act permits a landlord to end a tenancy 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. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the Act, which states:

The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied...

- (a) *The tenant or a person permitted on the residential property by the tenant had 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.***

The causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for

Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the Tenant must be extreme and require immediate action.

In this case, the Landlord has applied for an order of possession to end the tenancy early based on immediate and sever risk. During the hearing, A.Y indicated that the reason for seeking an order of possession was in relation to ongoing concerns regarding noise and intoxication, verbal threats and suspected drug dealing, resulting in Police involvement.

Based on the testimony and evidence before me, I am not satisfied that the situation is so urgent that it should end earlier than a One Month Notice to End Tenancy for Cause would normally take effect. I find that the Landlord failed to provide sufficient evidence that this tenancy should end pursuant to Section 56 of the Act.

In light of the above, I dismiss the Landlord's Application, without leave to reapply.

As the Landlord was not successful with their Application, the Landlord is not entitled to recover the filing fee from the Tenant.

Conclusion

The landlord has issued a one month notice to end tenancy for cause; however, they had insufficient evidence to prove it should end earlier under section 56. The tenancy will continue 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: July 05, 2019

Residential Tenancy Branch