



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA WOMEN'S RESOURCE SOCIETY and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on July 29, 2019 (the "Application"). The Landlord applied for an order of possession to end a tenancy early for immediate and severe risk, pursuant to the *Residential Tenancy Act* (the "Act").

The hearing was scheduled for 1:30pm on August 26, 2019 as a teleconference hearing. The Landlord's Agents, C.J. and A.M., attended the hearing at the appointed date and time and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 15 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 C.J., A.M., and I were the only persons who had called into this teleconference.

C.J. testified that the Landlord's Application and documentary evidence package was served to the Tenant in person on July 29, 2019. C.J. stated that the Landlord reconfirmed with the Tenant on August 9, 2019 that the Tenant received the Landlord's Application and evidence package. 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 July 29, 2019, the same date of service. The Tenant did not submit documentary evidence in response to the Application.

C.J. and A.M. were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However,

only the evidence relevant to the issues and findings in this matter are described in this Decision.

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*?

Background and Evidence

C.J. and A.M. testified that the tenancy began on April 29, 2019. Currently, the Tenant pays rent in the amount of \$375.00 to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$187.50. The Landlord submitted a copy of the tenancy agreement in support.

C.J. and A.M. testified that the Tenant currently resides in low barrier housing for women fleeing from violence. As such, there is a strict policy surrounding guests not being left unattended in the building to ensure safety of all residents in the building.

C.J. and A.M. stated that there have been several instances where the Tenant has been seen on video surveillance, bringing in a male guest into the building and leaving him unattended for extended periods of time. C.J. and A.M. stated that the male guest has been observed wandering the halls, knocking on doors, and taking food from the common kitchen area, before taking it back to the Tenant's rental unit.

C.J. and A.M. testified that on June 17, 2019 the Tenant reported that her keys were missing and that she was unable to gain entry to the building. C.J. and A.M. stated that before they were able to provide the Tenant with a replacement key, they received a report that the front door of the building had been kicked in. C.J. and A.M. suspect that the Tenant and her male guest caused the damage to the door.

C.J. and A.M. stated that the Tenant has been issued several warning letters in relation to leaving her male guest unattended in the building which is contrary to the policies which the Tenant agreed to abide by at the start of her tenancy. The Landlord provided a copy of the warning letters in support. C.J. and A.M. stated that the Landlord has also served the Tenant with a One Month Notice to End Tenancy for Cause with an effective date of September 1, 2019. C.J. and A.M. stated that this is a high risk situation which requires intervention to ensure safety of all the residents in the building.

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 landlords 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 severe risk. During the hearing, C.J. and A.M. indicated that the reason for seeking an order of possession was in relation to ongoing concerns regarding the Tenant not abiding by building guest policies as well as concerns around the guest's actions while left unattended at the building.

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.

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: August 27, 2019

Residential Tenancy Branch