



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession, and to recover the filing fee from the Tenant.

The Landlord attended the hearing and provided testimony. However, the Tenant did not appear. The Landlord stated that he personally delivered the Notice of Expedited Hearing, and evidence to the Tenant on August 9, 2019. I find the Tenant was sufficiently served on this day.

The Landlord was provided the 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

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

During the hearing I explained to the Landlord that he applied for an urgent application to end the tenancy early, which is a special mechanism available to resolve immediate and severe risks to the Landlord, or the property. I reminded the Landlord that this was

his opportunity to present why the tenancy needs to end immediately, and what makes this application urgent. The Landlord was very brief in his statements, and did not speak to any of his documentary evidence. The Landlord only spoke about the noise complaints he has received from the tenants who live upstairs, and the people who live next door. The Landlord stated that he has been getting text messages and complaints that this Tenant is disturbing them, and is generally quite noisy.

Analysis

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 a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; and, 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 to take effect.

I have carefully considered the evidence before me. Although I acknowledge that there is some evidence the Tenant is being noisy, based on the Landlord's testimony about the complaints, and the written letter from the Tenants living above, I do not find the evidence before me sufficiently demonstrates that this issue is immediate or severe, such that it warrants as early end to the tenancy, pursuant to section 56 of the Act.

An early end to tenancy is typically reserved for situations where it is not reasonable for the Landlord to wait for a 1-Month Notice to take effect. I dismiss the Landlord's application for an order of possession, as I do not find it meets the criteria for an early end to tenancy, as laid out above.

Given the Landlord was not successful in this hearing, I decline to award him with the recovery of the cost of the filing fee he paid to make this application.

Conclusion

The Landlord has not met the burden to prove the tenancy should end early. Therefore, the Landlord's Application is dismissed without leave to re-apply and the tenancy will continue until such time it is 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 26, 2019

Residential Tenancy Branch