



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On August 6, 2019, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an early end of tenancy and an order of possession for the rental unit.

The matter was set for a conference call hearing. The Landlord appeared at the hearing; however, the Tenant did not.

The Landlord testified that the Tenant was served with the Notice of Dispute Resolution proceeding Hearing by posting the notice to the Tenant’s door on August 13, 2019. The Landlord provided a proof of service document and a photograph of himself posting the notice to the Tenant’s door. I find that the Tenant was served with the Notice of Hearing in accordance with sections 89 and 90 of the Act and failed to attend the hearing.

The Landlord was provided the opportunity to present his evidence orally and in written and documentary form, and to make submissions at the hearing.

Background

The Landlord testified that the tenancy began in November 2018, on a month to month basis. The Landlord testified that rent in the amount of \$1,350.00 is due by the first day of each month. The Landlord testified that the Tenant paid a security deposit of \$675.00.

The Landlord testified that the Tenant and unauthorized occupants are not letting him enter the rental unit to deal with an emergency repair of a water leak. The Landlord

testified that water from the rental unit is coming down into the unit below and is causing significant damage to the lower unit.

The Landlord testified that other occupants of the rental property have reported heavy traffic into the rental unit at all hours of the day and night. The Landlord testified that an occupant living below reported that there is constant yelling and screaming and fighting in the rental unit. The Landlord testified that drug paraphernalia (needles) have been left all over the property. The Landlord provided a written statement from an occupant from another unit on the property regarding the noise, fighting and needles. The Tenant states that she does not feel safe.

The Landlord testified that the police informed him that the activity is drug related.

The Landlord testified that he has also received complaints from many of the neighbors surrounding the rental property.

The Landlord is seeking to end the tenancy and receive an order of possession for the rental unit.

Analysis

Section 56 of the *Act* states that a Landlord may make an application for dispute resolution to request an order 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 and granting the Landlord an order of possession in respect of the rental unit. If an order is made under this section, it is unnecessary for the Landlord to give the Tenant a notice to end the tenancy.

Under section 56 of the *Act*, the director may end a tenancy and issue an order of possession only if satisfied, in the case of a Landlord's application, the Tenant or a person permitted on the residential property by 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 interest 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,
- 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
- 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 or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect.

An application for an early end of tenancy 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.

Based on the evidence above, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant or his occupants are preventing access to the Landlord to enter the unit and deal with an emergency repair of the rental property.

I also find that the Tenant is responsible for activity on the rental property that is affecting the safety and quiet enjoyment of other occupants. I find that the Tenant has put the Landlord's property at significant risk 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.

Therefore, I am ordering that the tenancy will end immediately.

I find that the Landlord is entitled to an order of possession, effective one day after service on the Tenant pursuant to section 56 of the Act. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Tenant to repay the \$100.00 fee that the Landlord paid to make application for dispute resolution. I authorize the Landlord to withhold \$100.00 from the security deposit.

Conclusion

The Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord and is putting the Landlords property at risk, and I find that 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.

The tenancy is ending immediately.

The Landlord is granted an order of possession effective one (1) day after service on the Tenant.

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 29, 2019

Residential Tenancy Branch