



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 3BBB HOLDINGS LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

This expedited hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for an early end of the tenancy and an order of possession pursuant to section 56 of the Act the recovery of the filing fee pursuant to section 72 of the Act.

The landlord participated in the teleconference, the tenant did not.

Preliminary Issue – service for expedited hearing

The landlord testified that she served the tenant with the Notice of Dispute Resolution Proceedings, which includes the Application for Dispute Resolution by posting it on the tenants' door on September 7, 2019.

The landlord's application for early end of tenancy and order of possession, filed on September 6, 2019 is an application that falls under Rule 10 of the Residential Tenancy Branch Rules of Procedure [Expedited Hearings]. The landlord acknowledged and confirmed that she agreed that this hearing was heard within 16 days of the application being filed. Rule 10 addresses the issued before me as follows.

Section 9(3) of the *Residential Tenancy Act* (RTA) and *Manufactured Home Park Tenancy Act* (MHPTA) permit the director of the Residential Tenancy Branch to establish rules of procedure for the conduct of dispute resolution proceedings. Under Rule 10 of the rules of procedure, the director may set an application for dispute resolution down for an expedited hearing meaning it will be heard on short notice to the respondent.

Section 71(2)(a) and (c) of the RTA and section 64(2)(a) and (c) of the MHPTA allow the director to order that documents must be served in a manner the director considers

necessary, despite the methods of service provided for in sections 88 and 89 of the RTA and sections 81 and 82 of the MHPTA, and that a document not served in accordance with those sections is sufficiently given or served for purposes of the Act.

THE DIRECTOR ORDERS that:

Pursuant to sections 71(2)(a) and (c) of the RTA and sections 64(2)(a) and (c) of the MHPTA, and subject to any further order made pursuant to those sections:

1. A party to an application for dispute resolution set down under Rule 10 of the rules of procedure for a hearing date that is between six and 11 days after the date the application is made must serve their materials

- a. by leaving a copy with the person,
- b. if the person is a landlord, by leaving a copy with an agent of the landlord, or
- c. if the person is a tenant, by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant.

2. A party to an application for dispute resolution set down under Rule 10 of the rules of procedure for a hearing date that is between **12 and 16 days** after the date the application is made **must serve their materials**

- a. by any method set out in paragraph 1 of this order,
- b. by attaching a copy to a door or other conspicuous place at the address at which the person resides, or**
- c. if the person is a landlord, by attaching a copy to a door or other conspicuous place at the address at which the person carries on business as a landlord.

Posting the notice on the door is an accepted means of service for this particular application. I find that the landlord has complied with the service provisions as required and that the tenant has been served notice of this hearing, the hearing proceeded and completed in their absence.

Issues to Decide

Is the landlord entitled to have the tenancy end early and be granted an order of possession?

Is the landlord entitled to the recovery of the filing fee from the tenant for this application?

Background and Evidence

The landlord gave the following undisputed testimony. The landlord testified that the tenancy began September 8, 2017. The current monthly rent is \$858.00 due on the first of the month. The landlord testified that the tenant paid a security deposit of \$412.50 which the landlord still holds. The landlord seeks to end this tenancy early as the tenant “poses an immediate and severe risk to the rental property, other occupants or the landlord”. The landlord testified that the tenant was a very good tenant when she first moved in however; the tenant has developed a drug addiction problem and the problems have stemmed from there.

The landlord testified that; transient people are living in the unit, drug dealing, and usage is occurring in the unit, people coming and going at all hours of the night, police attending on a regular basis and severe damage occurring to the unit. The landlord testified that the tenant has smashed windows, ripped doors out of the bedroom and used them to cover the damaged windows, vehicles have driven into the suite access door on more than one occasion to cause repeated and severe damage.

Analysis

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord’s notice for cause. 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.

The landlord submitted extensive documentation and provided undisputed testimony to support their claim. Based on all of the above, and in the absence of any disputing testimony or evidence from the tenant, I find that the landlord has met the two-part test as noted above and is entitled to have this tenancy end early. In addition, the landlord is granted an order of possession pursuant to Section 56 of the Act. The landlord is also entitled to retain \$100.00 from the security deposit for the recovery of the filing fee for this application.

Conclusion

The landlord is granted an order of possession. The tenancy is terminated.

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: September 24, 2019

Residential Tenancy Branch