



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an early end to this tenancy and the issuance of an Order of Possession pursuant to section 56; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted via teleconference and was attended by the landlord. No one was in attendance on behalf of the tenant. The landlord submitted documentary evidence that the tenant was served notice of this application and this hearing by registered mail on August 20, 2019. Canada Post tracking information was submitted in the landlord's evidence. Based on the submissions of the landlord, I find the tenant was deemed served notice of this proceeding on August 25, 2019, pursuant to section 90 of the *Act*. Therefore, I continued in the absence of the tenant.

Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession? Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy began on July 1, 2013 with the current monthly rent of \$1040.00 due on the first of the month. The landlord testified that the tenant paid the rent for the month of September but was paid late on September 3, 2019 as part of an ongoing pattern of late payments. The landlord testified that she is requesting an early end of tenancy and an order of possession as the tenants pose a significant risk to the rental property, other occupants or the landlord. The landlord testified that the tenant is selling cocaine from

her unit. The landlord testified that people come and go through the night every night from 10pm to 4am. The landlord testified that the tenant has connections to organized crime and is “dealing for them”. The landlord testified that the tenant has threatened other tenants and has an intimidating and threatening way about her. The landlord testified that the tenant has taken a roommate in that is a prostitute and is “turning tricks” in the unit. The landlord testified that the police have attended several times and are watching the tenants but have not been able to obtain evidence to lay charges against the tenant. The landlord testified that this tenancy must end sooner rather than later.

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.

In this case, I am not satisfied that the landlord has met the second part of the test by showing that it would be unreasonable or unfair for a one month Notice to End Tenancy to take effect. The landlord pointed out some “potential threats or issues” but much of

the testimony provided was second hand information and not actual events witnessed by the landlord. The landlord testified that the neighbouring tenants would be willing to testify, however; they did not participate in this hearing. Although there may be cause to end this tenancy pursuant to Section 47 of the Act; I do not find it is unfair or unreasonable for the landlord to wait for a one month Notice to End Tenancy to take effect.

As the landlord has been unsuccessful in this application, I dismiss the landlord's application to obtain the recovery of his filing fee from the tenant.

Conclusion

I dismiss the landlord's application in its entirety.

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 06, 2019

Residential Tenancy Branch