



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

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 an Order of Possession pursuant to section 56.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses and cross-examine witnesses.

Since both parties attended the hearing and submitted evidence for the hearing, I find that the parties were both sufficiently served pursuant to section 71(2)(c) of the *Act*.

Preliminary Matter: Name Correction

Tenant, C.M. testified that the application stated his name incorrectly. I herein amend the tenant's application to state to the correct name of tenant, C.M., which is stated on first page of this decision, pursuant to section 64(3)(c) of the *Act*.

Preliminary Issue: Admissibility of Evidence from the Landlord

During the hearing the landlord sought to introduce documentary evidence which not served on the tenants before the hearing. The tenants objected to the admissibility of this evidence.

Residential Tenancy Branch Rules of Procedure, sections 3.2 and 3.3 states that:

3.2 Evidence relating to an early end to a tenancy

When a landlord is seeking an early end to the tenancy, the landlord must submit all evidence with the Application for Dispute Resolution, or, when applying using the Online Application for Dispute Resolution, the next day. All evidence to be relied on at the hearing must be served on the respondent with the Notice of Dispute Resolution Proceeding Package described in Rule 3.1.

The landlords did not serve their evidence upon the tenants. I find that the admission of this nondisclosed evidence would prejudice the tenants and result in a breach of the principles of natural justice. Accordingly, the landlord's non-served evidence is excluded pursuant to *Residential Tenancy Branch Rules of Procedure*, section 3.12.

Issue(s) to be Decided

Are the landlords entitled to an order for an early end to this tenancy and an Order of Possession?

Background and Evidence

The landlord testified that the tenants are engaged in illegal activity at the rental unit. The landlord claims that the tenants frequently have large amounts of stolen property at the rental unit. The landlord claims that the neighbours have complained about the tenants and want them removed. The landlord also testified that the police have responded to the rental unit on multiple occasions.

The landlord also testified that the tenants have damaged the rental unit. The landlord did not specify the type of damage they allege to have occurred.

The tenants denied the landlords allegations. They tenants testified that the landlords have harassed and physically assaulted the tenants.

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.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

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.

Orders for Possession issued under section 56 of the *Act* are reserved for the most dire or urgent of situations. The landlord did not provide sufficient evidence to establish that the tenants have engaged in any conduct which would form a basis for ending a

tenancy under section 56 of the Act. Furthermore, based on the evidence before me, I find that it would not be unreasonable or unfair to wait for a notice to end the tenancy for cause under section 47 of the *Act*.

In light of this finding, I dismiss the landlord's application for an early end to the tenancy without leave to reapply.

Conclusion

I dismiss the landlords' application. This 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: September 11, 2019

Residential Tenancy Branch