



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

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;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided testimony. The landlord stated that the notice of hearing package was served upon the tenants on August 29, 2019 by placing them under the rental unit door. The tenants confirmed receipt of this package. The landlord also stated that the submitted documentary evidence of 4 statements and 1 copy of a signed tenancy agreement were included as and served with the notice of hearing package. The tenants disputed this claim stating that only two statements and a copy of the signed tenancy agreement were received of B.O. (the landlord's son) and W.(last name not provided). A review of the Residential Tenancy Branch database shows that only 1 statement of B.O. was received on August 22, 2019 with a copy of the signed tenancy agreement. The tenants did not submit any documentary evidence.

I accept the evidence of both parties and find that the tenant was sufficiently served as per section 90 of the Act with the notice of hearing package, the copy of the signed tenancy agreement and the 2 statements received by the tenants. On the remaining issue of the two missing statements a review of the database confirmed that no other evidence was uploaded by the landlord. This in conjunction with the two statements received by the tenant, I find that the landlord failed to provide this evidence and the hearing shall proceed in their absence.

Issue(s) to be Decided

Is the landlord entitled to an early end to the tenancy and an order of possession?
Is the landlord entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on July 1, 2019 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated June 28, 2019. The monthly rent is \$2,400.00 payable on the 1st day of each month. A security deposit of \$1,200.00 and a \$1,200.00 pet damage deposit were paid on July 1, 2019.

The landlord seeks an early end to the tenancy and to obtain an order of possession. The landlord claims that the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord. The landlord provided written details:

Tenant, C.R. is a disruptive threatening person. He has threatened my son with a gun, neighbor with stabbing him in the face, beating up etc. as they try to enter their own properties. Very loud music playing while drunk & drinking in his vehicle many times while yelling abuse to anyone passing by and throwing things at said vehicles. Police file numbers: 2019-2665, 2019-2631, 2019-2896 arrest twice & vehicle towed once.

The applicant has submitted in support of these claims a typed, unsigned and undated statement. It states in part, ...*At that point I said I was going to call the police, he replied with "I'm going to get my f***ing gun", he then proceeded to bolt as fast as he could into the front door yelling "Get my gun, get my gun!" I went into my own residence and locked the doors and waited for the police. The police came and they took him away...*

The tenants dispute these claims stating that she (K.K.) was present and that no such threats were made.

The landlord responded stating repeatedly that she had police file numbers and a statement from a neighbor who is a local official who was a witness to the threats. The landlord was unable to provide any further supporting evidence of this claim. The landlord relied solely on the unsigned and undated statement of B.O.(her son).

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in 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.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

I find on a balance of probabilities that the landlord has failed to provide sufficient evidence of the tenant, C.R. threatening the landlord's son with a gun. The landlord relies solely on her direct testimony and on the unsigned and undated statement. The tenants have provided direct testimony disputing this claim. In this case, I find that the landlord failed to provide sufficient evidence of her claim.

Conclusion

The landlord's application is dismissed.

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 20, 2019

Residential Tenancy Branch