



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFL

Introduction

This expedited 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 and to recover the filing fee from the tenant pursuant to section 72.

The tenant did not attend this hearing which lasted approximately 10 minutes. The landlord attended the hearing on behalf of both co-landlords and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The landlord testified that they had served the tenant by posting the Notice of Hearing on the tenant's rental unit door on September 7, 2019. Based on the testimony I find that the tenant is deemed served in accordance with sections 88, 89 and 90 of the *Act* on September 10, 2019, three days after posting.

Issue(s) to be Decided

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

Background and Evidence

The landlord gave the following evidence. This periodic tenancy began in December 2018. The monthly rent is \$1,600.00 payable on the first of each month. The landlord collected a security deposit of \$800.00 at the start of the tenancy and still holds the

amount. The rental unit is one of two suites in a detached home. The other suite is occupied by other residents.

The landlord submits that the tenant has failed to pay the full rent in a timely fashion, that there is a rental arrear and that they have acted in a manner that is disruptive and harmful to the landlord and the other residents of the building.

The landlord submits that the other resident has reported the tenant being intoxicated, conducting themselves in an aggressive manner and that there was a physical altercation between the tenant and resident. The landlord submitted into evidence copies of text messages between the landlord and the resident of the rental building. The landlord testified that the other resident has since vacated the rental unit but another resident occupies the suite and has given complaints. The landlord also submits that the tenant has threatened the landlord with physical harm.

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.

I find that the landlord has failed to prove that any of the circumstances described above exist such that it would be unreasonable or unfair to the landlord or other tenants to serve the tenant with a notice to end tenancy under section 47 of the *Act* and wait for that notice to take effect.

The landlord's evidence consists primarily of conjecture, hearsay, unsubstantiated rumours and concerns. I find the text messages submitted into evidence by the landlord consists of some reporting of raised voices and fights between the tenant and a guest, there is little evidence that the conflict involved or adversely affected the other resident to a degree or frequency that is unreasonable. I find the landlord's submission of photographs of dirty floors claiming that they show blood splatters from a violent altercation to require far too much a leap. Stained floors are insufficient to establish that the spots shown are caused by the tenant. Similarly, I find the photograph of a damaged door to be insufficient to show that the damage was caused or contributed to by the tenant.

I find much of the landlord's testimony detailing the tenant's behaviour to be subjective complaints and unsupported conjecture. I find the landlord's testimony about their belief of the tenant's history of criminal activity to be unsubstantiated. While the text message conversation between the landlord and the tenant is not cordial, I do not find it demonstrates that there has been a threat of real physical harm.

Furthermore, the landlord's primary complaints pertain to the non-payment of rent, an issue that does not give rise to an early end of tenancy. The landlord submitted into evidence a 10 Day Notice to End Tenancy for Non-Payment of Rent. I find that non-payment of rent is not a basis for an early end of the tenancy and the evidence pertaining to payments and the landlord's economic distress is irrelevant to the matter at hand.

Based on the evidence submitted I find, on a balance of probabilities that the landlord has not shown that the tenant's actions or negligence has given rise to a reason for this tenancy to end.

Conclusion

The landlord's application is dismissed in its entirety without leave to reapply.

This tenancy continues 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 30, 2019

Residential Tenancy Branch