



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter ADVISORY ASSOCIATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("the *Act*") for an early termination of this tenancy and an Order of Possession pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:40 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord's agent, JM ("landlord"), attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed that the landlord and I were the only ones who had called into this teleconference.

The landlord testified that the tenant was served with the landlord's application for dispute resolution package and evidence on October 7, 2019, by way of posting the package on the tenant's door. The landlord provided a signed proof of service in their evidentiary materials. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenant deemed served with the landlord's Application and evidence on October 10, 2019, 3 days after posting. The tenant did not submit any written evidence for this hearing.

Issues(s) to be Decided

Is the landlord entitled to an early termination of this tenancy and an Order of Possession?

Background and Evidence

This month-to-month tenancy began on November 1, 2017. The tenant's pays \$435.00 per month to reside in this supportive housing complex. The landlord collected a security deposit in the amount of \$375.00 for this tenancy, which the landlord still holds.

The landlord is seeking an early termination to this tenancy as the landlord feels that the tenant poses a risk to the building, other occupants, and himself. The landlord provided a package of materials that include numerous warnings sent to the tenant, documented incidents, as well as photographs. The landlord is concerned about the fire risk to the building as the tenant has stored items such as a blowtorch in his unit. The unit is also extremely cluttered, and as this is a multi-dwelling complex, the risk of fire is extremely concerning for all occupants as well as the landlord. The landlord is also concerned about the mental health of the tenant, and the rapid deterioration of the tenant's behaviour since the tenant was served with a 1 Month Notice for Cause on July 17, 2019. The landlord did not apply for an Order of Possession pursuant to section 55 of the *Act*, but is concerned that the tenant poses a significant risk to others and himself if this tenancy continues.

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 of the *Act* for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56 of the *Act*, I need to be satisfied that the tenants have 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 reasons cited in the landlord's application would need to be supported by sufficient and compelling evidence in order to qualify for the first part of section 55 of the *Act*.

Although the landlord testified to the issuance of a 1 Month Notice to End Tenancy for Cause pursuant to section 47 of the *Act*, the landlord has not applied for an Order of Possession pursuant to this 1 Month Notice. The landlord, in their application, is attempting to obtain an early end to tenancy as they believe the tenant's behaviour has escalated since the issuance of this 1 Month Notice.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered. In this case, I find that the landlord's application falls well short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

Although the landlord issued a 1 Month Notice for Cause on July 17, 2019, the landlord did not make an application for an Order of Possession pursuant to that 1 Month Notice. Although the landlord provided detailed evidence documenting the tenant's behaviour and the risk to the building, himself, and others, I am not satisfied that the landlord provided sufficient evidence that the behaviour of the tenant is significant or serious enough to justify the early termination of this tenancy.

I find that the landlord's failure to pursue an Order of Possession pursuant to the 1 Month Notice issued on July 17, 2019 does not automatically qualify them to apply under section 56 of the *Act*. I find that the landlord failed to provide sufficient and

compelling evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause to be unreasonable or unfair. For these reasons, I dismiss the landlord's application for an early end to this tenancy.

Conclusion

I dismiss the landlord's application 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: October 24, 2019

Residential Tenancy Branch