



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 an Order of Possession pursuant to section 56;
- authorization to recover the filing fee for this application pursuant to section 72.

Both parties attended the hearing and had full opportunity to provide affirmed testimony, present evidence, cross examine the other party, and make submissions. The respondent acknowledged receipt of the applicant's Notice of Hearing and Application for Dispute Resolution. Neither party raised issues of service. I find the parties were served in accordance with the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession pursuant to section 56?

Is the landlord entitled to recover the filing fee for this application pursuant to section 72?

Background and Evidence

The landlord claimed that the tenant has been making derogatory and offensive comments to her directly and online. The landlord claimed that the tenant frequently contacted her at inappropriate hours. The landlord also claimed that the tenant very

aggressive and rude on multiple occasions. As a result, the landlord claimed that she has contacted the police on multiple occasions.

The landlord also claims that the tenant was engaged contractors to work on the rental unit with the landlord's permission.

The landlord also claimed that the tenant has made false repair claims regarding a water leak and a false mice infestation.

The tenant denied that she was aggressive. The tenant testified that the comments she made online were genuine efforts to obtain advice regarding her tenancy. The tenant testified that the rental unit did have problems with a water leak and mice infestation and her complaints were legitimate.

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.

Residential Tenancy Branch Policy Guideline No. 51 discusses applications to end tenancy early as follows:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.

The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).

Without sufficient evidence the arbitrator will dismiss the application. Evidence that could support an application to end a tenancy early includes photographs, witness statements, audio or video recordings, information from the police including testimony, and written communications. Examples include:

- A witness statement describing violent acts committed by a tenant against a landlord;
- Testimony from a police officer describing the actions of a tenant who has repeatedly and extensively vandalized the landlord's property;
- Photographs showing extraordinary damage caused by a tenant producing illegal narcotics in a rental unit; or
- Video and audio recordings that clearly identify a tenant physically, sexually or verbally harassing another tenant.

Based on the testimony of both parties and my review of the written evidence, I find that the landlord has failed to prove that any of the circumstances described above exist to justify an early end of this tenancy. I find that the landlord's allegations that the tenant made offensive and derogatory comments about the landlord are not circumstances

sufficient to warrant an early end of tenancy pursuant to section 56 of the *Act*. Similarly, the landlord's allegations that the tenant engaged repair contractors without the landlord's permission is not an allegation within the scope of the extremely situations set out in *Residential Tenancy Branch Policy Guideline No. 51* where an emergency end of tenancy is appropriate. I also do not find the landlord's allegations that the tenant made false repair requests to be sufficient for an early end of this tenancy.

Based on the evidence submitted by the parties I find, on a balance of probabilities that the landlord has not shown that the tenant's actions has given rise to a reason for this tenancy to end on an emergency basis. Additionally, I find there is insufficient evidence to conclude that the tenant's conduct makes it unreasonable to wait until a notice to end tenancy pursuant to section 47 of the *Act* could take effect.

Consequently, I dismiss the landlord's application. This tenancy will continue until ended in accordance with the *Act*.

Since the landlord has not been successful in this application, I dismiss the landlord's application for reimbursement of the filing fee pursuant to section 72.

Conclusion

I dismiss the landlord's 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: November 17, 2019

Residential Tenancy Branch