



Dispute Resolution Services

Page: 1

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 Termination of Tenancy and Order for Possession pursuant to section 56 of the *Act*.

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

As both parties were present, service of documents was confirmed. The tenants confirmed receipt of the landlord's Notice of Dispute Resolution Proceeding Package. Based on the undisputed testimonies of the parties, I find that the tenants were served with the notice of this hearing in accordance with section 89 of the *Act*.

Preliminary Issue – Amendment to Landlord's Application

The tenants' names were incorrectly provided in the landlord's Application for Dispute Resolution. Pursuant to my authority under section 64(3)(c) of the *Act*, I amended the landlord's Application to correctly name the respondents in this matter.

Issue(s) to be Decided

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

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony presented, not all details of the submissions and arguments are reproduced here. Only the aspects of this matter relevant to my findings and the decision are set out below.

The parties were unable to agree on when the tenancy began. The tenants testified that the tenancy began in 2014, while the landlord testified that the tenancy began in 2016. Both parties confirmed that the current monthly rent of \$700.00 is payable on the first day of the month, and that the tenants paid a security deposit of \$350.00 at the beginning of the tenancy, which continues to be held by the landlord.

The rental property owned by the landlord is a duplex consisting of two separate side-by-side adjoining rental units. The tenants reside in the rental unit which is the subject of this dispute, and other occupants reside in the adjoining rental unit.

The landlord testified that he had received a notice from the municipality that there had been 19 complaints regarding the property in the past few months, requiring the attendance of bylaw and police municipal services. The landlord stated that the municipality would charge him the costs of these excessive service calls, and therefore he felt he needed to end the tenancy as he cannot afford to pay these additional charges.

The tenants testified that the occupants of the adjoining rental unit in the property were the cause of the service calls, not them. They testified that the one of the occupants suffered from mental health issues resulting in her calling the police when she was not taking her medication as prescribed. The tenants also claimed that one of the occupants was an alcoholic who would disturb the neighbours by shooting off a pellet gun while intoxicated.

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. The allowable circumstances that must be proven by the landlord in order to end a tenancy early and issue an Order of Possession are set out in section 56(2) of the *Act*, as follows:

The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied...

- (a) The tenant or a person permitted on the residential property by the tenant has done any of the following:*
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
 - (iii) put the landlords property at significant risk;*
 - (iv) engaged in illegal activity that*
 - (A) has caused or is likely to cause damage to the landlord's property,*
 - (B) 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
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
 - (v) caused extraordinary damage to the residential property,*
and
- (b) it would be unreasonable, or unfair to the landlord 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.*

As outlined above, there are clearly two separate components to section 56(2) of the *Act*, both of which need to be met in order for a landlord to obtain an early end to a tenancy. The second component requires that a landlord demonstrate that it would be unreasonable or unfair to wait for consideration of a standard One Month Notice to End Tenancy for Cause pursuant to section 47 of the *Act* to be considered.

In this matter, the tenants disputed that they had been the cause of the calls for service to the property and testified that it was the residents in the adjacent rental unit on the property that had disturbed neighbours and made calls to police.

In order to end this tenancy early under section 56 of the *Act*, I find that the landlord would require more evidence to support his claims that the tenants were responsible for

any of the grounds for ending the tenancy noted in section 56(2)(a) of the *Act*, as opposed to the occupants in the adjoining rental unit.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further sufficient evidence, the party with the burden of proof has not met the onus to prove their version of events.

In this matter, the landlord bears the burden to prove his claim, and I find that the landlord failed to provide sufficient evidence to meet this burden of proof.

Therefore, I dismiss the landlord's application for an early end to tenancy. This tenancy continues until ended in accordance with the *Act*.

Conclusion

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

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 26, 2019

Residential Tenancy Branch