



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FFT

Introduction

This Emergency hearing dealt with the landlord's application under the *Residential Tenancy Act* (the *Act*) for the following:

- An Order for Early Termination of Tenancy and an Order of Possession pursuant to section 56 of the *Act*.

The landlords and tenants attended the hearing and had the opportunity to call witnesses and present affirmed testimony and written evidence.

The landlords ZQB & GGP provided affirmed testimony via interpreter ZQB that the landlords served the tenants with the Notice of Hearing and Application for Dispute Resolution in person on February 11, 2020.

Further evidentiary documents were served by taping to the door on March 6, 2020. The tenants AMH & AWA confirmed receipt of the Dispute Resolution hearing documents and the evidentiary package.

The tenants served their evidentiary package to the landlords in person on March 16, 2020. The landlords confirmed receipt of the tenant's evidentiary package.

Issue(s) to be Decided

- Is the landlord entitled to an order for early termination of a tenancy and an order of possession pursuant to section 56 of the *Act*?

Background and Evidence

The landlord testified that the tenancy began on February 1, 2020 and is a fixed term tenancy until January 31, 2021. The rent is \$1,700.00 monthly and the tenants provided a security deposit at the beginning of the tenancy in the amount of \$850.00 which the landlords holds in Trust. The landlords submitted a copy of the tenancy agreement as evidence.

In addition to applying to an early termination of the tenancy, the landlords issued a One Month Notice for Cause dated February 10, 2020, with an effective date of March 20, 2020.

The landlord summarized his claims for the Emergency Termination as follows;

The landlord provided a written signed statement from his eldest adult daughter CP dated February 8, 2020 listing the various complaints they had against the tenants. These include the lack of respect for her parents, issue of the tenants smoking and the tenants numerous repair complaints in order to obtain a rent reduction.

The landlord GGP submitted that there had been three meetings with the tenants regarding the rent reductions and tenant AWA became aggressive on two separate occasions invading his space. The landlord testified that the basement had a leak and that the tenant was complaining that the rent should be reduced in half.

The landlord GCP submitted On February 10, 2020, that the tenant AWA became aggressive again and was "video taping" whilst the locks to the downstairs rental unit were being changed.

The landlord GCP testified that the tenants complained one evening when their daughter was playing the piano. The landlords testified that the tenants did not wish their daughters to play music in their own property.

The landlord also submitted a written statement from a previous tenant who resided in the rental unit. He recounted the previous tenant's text advising that he had been approached by tenant AWA, when he went to pick up his mail and felt intimidated.

The tenant AMH testified that her partner had no intention of intimidating the previous tenant but had approached him in the garden to ascertain what he was doing on the premises and was not aware that the previous tenant had come to collect his mail.

The tenant AMH testified that they had no reason to intimidate the landlord or his family but had written to the landlord to confirm the repairs, and also wished to ascertain when the daughter was going to “play the piano” so that they could make suitable arrangements.

The landlords testified that their daughters were terrified of the tenants. The landlords stated that they would like the tenants to be removed or evicted from the basement rental unit as soon as possible due to concerns for their safety. The landlords requested an Order of Possession effective as soon as possible.

Analysis

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

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In this case, the onus is on the landlord to establish on a balance of probabilities that he is entitled to an order for an early end of the tenancy.

To end a tenancy early, the landlord must prove that the tenant has done something contrary to section 56 and that it would be unreasonable or unfair to the landlord or other occupants to wait for a notice to end tenancy for cause (“One Month Notice”).

Section 56 of the Act provides as follows:

Application for order ending tenancy early

56 (1) *A landlord may make an application for dispute resolution to request an order*

- a. *ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [landlord's notice: cause], and*
- b. *granting the landlord an order of possession in respect of the rental unit.*

(2) 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, in the case of a landlord's application,

- 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**
 - (ii) **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 landlord's property at significant risk;*
 - (iv) engaged in illegal activity that*
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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

The landlord relied on section 56(2)(a)(i), that is, that the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

Based on a review of the testimony and evidence, I find that the landlord has not met the burden of proof on a balance of probabilities under section 56(2)(a) that is,

that the tenant has significantly interfered with or unreasonably disturbed other occupants.

In reaching this conclusion, I have given weight to the testimonies and written evidence submitted by the landlords. The landlord's testimony was supported by a text and a written statement from two witnesses. One of the witnesses was the landlord's daughter CP. However, I do not accept the evidence that the tenants have become violent or have issued threats of causing harm to the occupants.

I find that the landlord failed to establish that the recent incidents were serious and urgent enough to end the tenancy early.

The landlord has failed to provide recent examples of the tenant's escalating behaviour to support an order of possession. I am not satisfied that there is an imminent threat to the health, safety and security of the landlord's family that would cause the end to this tenancy pursuant to section 56 of the *Act*.

I also find the landlord has not met the burden of proof on a balance of probabilities. I find the landlord has not established an entitlement to an order for early termination of tenancy and an Order of Possession effective immediately.

Therefore, I dismiss the landlord's application for an early end to the tenancy pursuant to section 56 of the *Act*.

The landlord is unsuccessful in this application; therefore, I do not grant the filing fee in accordance with section 72 of the *Act*.

I make no findings on the merits of the One Month Notice as the scope of this hearing is limited to the Emergency Termination.

Conclusion

I dismiss the landlord's application for an early end to the tenancy. The tenancy continues 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 March 25

Residential Tenancy Branch