



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 the issuance of an Order of Possession pursuant to section 56(1); and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The tenant confirmed that he received the landlord's documentary evidence. The tenant did not submit any documentation for this hearing.

Issues(s) to be Decided

Is the landlord entitled to an early end of 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 testimony. The most recent tenancy agreement began on September 1, 2019. The monthly rent of \$3500.00 for the whole home is due on the last day of the month. A security deposit or pet deposit was not collected. The landlord testified that he is seeking an early end of the tenancy and an order of possession and filed his application for the following reason:

"This is an urgent application about a tenant who poses an immediate and severe risk to the rental property, other occupants or the landlord"

The landlord testified that on March 1, 2020 the landlord attended the property for a friendly visit to visit the tenant who is also his nephew. The landlord testified that he advised the tenant that he would be putting the home up for sale. The landlord testified that the tenant immediately became angry and threatened the safety of the landlord and the property. The landlord testified that the tenant threatened to burn the property, flood the basement, take an axe to the kitchen and threats of physical harm to him.

The landlord testified that he served the tenant with a notice to end tenancy for unpaid rent on March 16, 2020 which resulted in another confrontation with the tenant that required police attendance. The landlord testified that the tenant threatened family members with text messages and phone calls. The landlord testified that the tenant threatened his realtors which resulted in them not listing the home for him. The landlord testified that he is unable to sleep and is fearful for his family's safety, his own personal safety and the safety of his property. The landlord testified that the tenant is unpredictable and dangerous. The landlord wants the tenancy to end.

The tenant gave the following testimony. The tenant testified that the landlord attended the property February 29, 2020 not March 1, 2020 which shows that the landlord is a fraud. The tenant testified that he gave the landlord \$40,000.00 for the down payment of the home in 2004. The tenant testified that the landlord is the "biggest scammer in the history of my life". The tenant testified that the landlord presently owes him \$205,000.00. The tenant testified that the landlord is trying to evict him to avoid paying him for all the renovation work that he has done on the home and the countless loans that he has provided the landlord. The tenant testified that the home was purchased with proceeds of crime money and that it stemmed from a "grow op". The tenant testified that if they pay him his money there won't be any inheritance for the cousins and that's why they've all turned on him. The tenant testified that if they pay him his money he will gladly move out and move on. The tenant testified that he wants what is owed to him and he'll leave.

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. 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.

Given the contradictory testimony and positions of the parties, I must first turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanor as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

Considered in its totality I find the landlord to be a more credible witness than the tenant. The landlord provided consistent, logical testimony which was supported with documentary evidence where available. The landlord admitted when he could not recall specific facts and, where appropriate, referred to his notes and documents prepared prior to this hearing to assist his recollection.

The tenant was argumentative, focused on irrelevant matters and conducted himself in an agitated and irrational manner. I found that much of the tenant's submissions to have little to do with the matter at hand and was concerned with attacking the landlord and making himself appear to be the wronged party. When given the opportunity to cross-examine the landlord the tenant chose to ask irrelevant personal questions rather than any substantive matter. The tenant was solely focused on money that he believed that the landlord owes him. The tenant kept referring to a multitude of documents that would support and prove his position, however, the tenant did not submit them for this hearing. The tenant became more and more agitated throughout the hearing. The tenants' only response to the landlord's evidence was "he pushed me to lose my shit".

Based on the foregoing, where the evidence of the parties clashed, I found that the landlord's version to be more credible and consistent with how a reasonable person would behave.

The landlord submitted audio and digital evidence from other family members who also dialed into the conference. The tenant did not address any of their submissions despite being made available for questions. Based on the evidence submitted by the landlord, I am satisfied that the tenant has done 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. **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.

Based on the above I find that the landlord is entitled to an early end of tenancy and an order of possession pursuant to section 56(1) of the Act.

The landlord is also entitled to the recovery of the \$100.00 filing fee for this application.

Conclusion

The landlord is granted an order of possession, the tenancy is terminated. The landlord is granted a monetary order of \$100.00.

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: April 09, 2020

Residential Tenancy Branch