



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with a landlord's application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act.

The landlords appeared at the hearing; however, there was no appearance on part of the tenants.

Since the tenants did not appear, I explored service of hearing documents upon the tenants.

The landlord testified that she served the tenants with the proceeding package by posting to three copies, one for each tenant, to the door of the rental unit. The landlord submitted a signed Proof of Service as proof the proceeding packages were served upon each tenant by posting to the door of the rental unit on March 24, 2020. The landlord called her witness to testify as to service. The witness confirmed that she was with the landlord when the landlord posted three proceeding packages to the door of the rental unit and that she signed the Proof of Service. Section 89(2) of the Act provides that posting an Application for Dispute Resolution to a door is sufficient service where a landlord seeks an Order of Possession. Section 90 of the Act deems the recipient to have received the documents three days after posting. I was satisfied the landlord duly served each of the tenants with notification of this proceeding in a manner that complies with the Act and the tenants are deemed to have received the landlord's Application for Dispute Resolution three days after posting, or March 27, 2020. Accordingly, I continued to hear from the landlords and their witnesses without the tenants present.

The style of cause has been amended to reflect that the rental unit is the basement suite and separate from the upper suite that is also tenanted.

Issue(s) to be Decided

1. Has the landlord established a basis for ending the tenancy early and obtaining an Order of Possession under section 56 of the Act?
2. Recovery of the filing fee.

Background and Evidence

The landlord testified that the tenancy started on October 24, 2019. The tenants are required to pay rent of \$1400.00 on the 24th day of every month. The landlord has collected a total of \$1100.00 for a security deposit.

The landlord submitted that the tenants are renting the basement suite and the upper suite of the house is also tenanted.

The landlord seeks to end the subject tenancy early because the tenants and/or their guests are using illegal drugs in the rental unit and many people are coming and going to/from the property and creating a lot of disturbance and putting the health and safety of other occupants, the landlord and the property at risk. The landlord submitted that the tenants' activities are unreasonably disturbing the upper tenant by the fumes of smoking illegal drugs in the rental unit, and constant fighting and partying in the rental unit which keeps the upper tenant from being able to sleep; and, the tenants' use of drugs is putting the house and other occupants at risk of harm by fire. The landlord submitted that a crack pipe and burnt mattress were found during an inspection and the heat ducts were covered by pillows or pillow cases. The police attended and removed the crack pipes.

The landlord submitted that the tenants have also appeared to be passed out or very groggy and under the influence of drugs.

The landlord testified that in January 2020 one of the tenants, referred to by initials AS assaulted her and there is a police file for that incident.

The upper tenant referred to by initials JH was called to testify. JH testified that he is disturbed by the smell of heroin, crack and/or meth being smoked in the rental unit and the constant fighting, partying and banging in the rental unit that keeps him from

sleeping. JH also testified that many people are coming and going to/from the property and items have been stolen from the yard and items stolen off his vehicle since the tenants moved in. JH feels uncomfortable and unsafe in his own home due to the activities taking place at the property.

The landlord provided copies of the tenancy agreement, Shelter Information documents, an RCMP card with police file number, written statements and several photographs as evidence.

The photographs depict a very cluttered and unsanitary rental unit including several garbage bags inside and outside the rental unit, and a burnt and soiled mattress.

Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord had issued a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") and grant the landlord an Order of Possession. The landlord must demonstrate cause for ending the tenancy and that it would be unreasonable to wait for a 1 Month Notice to take effect.

Below I have reproduced section 56 of the Act:

- 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 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
 - (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.

The landlord's burden is high as section 56 is intended to apply in the most serious of circumstances.

Upon consideration of all of the unopposed evidence before me, including the testimony of the landlord and the witness JH, and the photographs, I find the landlord has cause to end the tenancy due to the actions of the tenants, or the actions of the tenants' guests that include smoking of illicit drugs coupled with fighting, partying and passing out or being extremely intoxicated which is unreasonably disturbing other occupants of the property and putting the health and safety of other occupants and the landlord and the landlord's property at significant risk. I am further satisfied that it would be unreasonable to wait for a 1 Month Notice to End Tenancy to take effect especially considering the landlord cannot issue a 1 Month Notice at this time under Ministerial Order No. 89. Therefore, I order this tenancy ended early and I provide the landlord an Order of Possession under section 56 of the Act.

In keeping with the above, I order the tenancy ended effectively immediately when the tenants receive this decision or the Order of Possession, whichever occurs first. The landlord is provided an Order of Possession effective two (2) days after service upon the tenants.

I award the landlord recovery of the \$100.00 filing fee. The landlord is authorized to deduct \$100.00 from the tenants' security deposit to recover this award.

Conclusion

I have ordered the tenant is ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenants under section 56 of the Act.

The landlord is awarded recovery of the filing fee and is authorized to deduct \$100.00 from the tenants' security deposit to recover this award.

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 21, 2020

Residential Tenancy Branch