



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Singla Bros. Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on June 12, 2020 (the “Application”). The Landlord applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the “Act”). The Landlord also sought reimbursement for the filing fee.

P.S. and S.S. (the “Representatives”) appeared at the hearing for the Landlord with Legal Counsel. The Tenant did not appear at the hearing. I explained the hearing process to the Representatives and Legal Counsel who did not have questions in this regard. The Representatives provided affirmed testimony.

Legal Counsel advised that the Representatives believe the Tenant left the rental unit a month ago but has allowed others to stay in the rental unit. Legal Counsel advised that the Landlord is still seeking an Order of Possession for the rental unit.

The Landlord submitted evidence prior to the hearing. The Tenant did not. I addressed service of the hearing package and Landlord’s evidence.

The Representatives confirmed the hearing package and evidence were posted to the door of the rental unit June 16, 2020. The Representatives believe the Tenant left the rental unit around June 10, 2020. The Representatives confirmed the Tenant did not provide notice ending the tenancy or otherwise indicating that she was vacating.

Based on the undisputed testimony of the Representatives, I find the Tenant was served with the hearing package and evidence in accordance with sections 88(g) and 89(2)(d) of the *Act*. The Tenant is deemed to have received the package June 19, 2020 pursuant to section 90(c) of the *Act*. I also find the Landlord complied with rule 3.1 of

the Rules of Procedure (the “Rules”) in relation to the timing of service. I find service at the rental unit sufficient given the Tenant has not ended the tenancy in accordance with the *Act* and still has possession of the rental unit.

As I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. The Representatives and Legal Counsel were given an opportunity to present relevant evidence and make relevant submissions. I have considered the documentary evidence, oral testimony and submissions. I will only refer to the evidence I find relevant in this decision.

I note that Legal Counsel asked at the start of the hearing to call a witness without disclosing their name given safety concerns. I told Legal Counsel I would not permit this.

Rule 7.6 of the Rules states:

7.6 Identification of people present at a dispute resolution hearing

Each participant must identify all people who are present with them at the start and anyone who joins them at any time during a hearing.

In my view, rule 7.6 of the Rules applies to witnesses. If a party wishes to call a witness at the hearing, they must identify them. This means providing their name.

Rule 3.6 of the Rules states:

3.6 Evidence must be relevant

All evidence must be relevant to the claim(s) being made in the Application(s) for Dispute Resolution.

The arbitrator has the discretion to decide whether evidence is or is not relevant to the issues identified on the application and may decline to consider evidence that they determine is not relevant.

In my view, the reliability and credibility of a witness cannot be effectively determined in the absence of knowing who the witness is, their connection to the events in question and the basis for their testimony. I would place no weight on testimony provided by

someone who will not identify themselves. Therefore, such testimony is not sufficiently relevant to be heard during a dispute resolution hearing.

Further, in my view, fairness requires that a party know what evidence is being presented against them and where that evidence originates from. In the absence of knowing where the evidence originates from, a party could not properly assess, test or respond to the reliability or credibility of the evidence. I find it would be unfair to hear and rely on testimony provided by someone who is unwilling to identify themselves as this would result in hearing and relying on evidence that the other party cannot properly respond to.

For all of the above reasons, I did not allow the Landlord to call a witness that refused to identify themselves.

At the end of the hearing, the Representatives said they were going to have another witness call into the hearing. I explained to the Representatives that they could do so but that I would require the person's name, their name would be in the decision and the decision will be sent to the Tenant. The Representatives indicated this was fine and called the witness. I could hear the Representatives' conversation with the witness. I found what the Representatives were saying to the witness in relation to whether the witness could provide testimony without being identified misleading. I told Legal Counsel that I would explain to the witness when they called in that they are required to provide their name, their name will be in the decision and the decision will be sent to the Tenant as I was not satisfied this information was being conveyed to the witness. Legal Counsel subsequently advised that the witness would not be calling in.

Issues to be Decided

1. Is the Landlord entitled to an order ending the tenancy early pursuant to section 56 of the *Act*?
2. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

A written tenancy agreement was submitted as evidence. The tenancy started April 01, 2020. It indicates it is a month-to-month tenancy but also for a fixed term ending March 31, 2021. The Representatives said the tenancy is a month-to-month tenancy. Rent is

\$1,690.00 per month due on the first day of each month. The Tenant paid a \$845.00 security deposit.

The Representatives and Legal Counsel provided the following testimony and submissions.

The police “raided” the rental unit June 03, 2020, June 10, 2020 and June 29, 2020. Police found 10 guns and drugs during the first “raid”. Police told the Representatives this. Police told the Representatives not to go to the rental unit alone because it is dangerous. Police are looking for the Tenant who is being investigated for drug trafficking. The Tenant has left the rental unit; however, five or six other people are living there. There is graffiti in the rental unit.

There are 47 units on the property. Eight of the neighbours of the rental unit have complained about the Tenant and/or rental unit. The neighbours are scared and afraid for their lives. People are coming and going from the rental unit at all hours of the night. This is disturbing neighbours. One of the neighbours moved due to the situation with the rental unit. The Representatives are worried they will lose further tenants.

The Landlord submitted the following evidence.

An RCMP card with a police file number.

An email from a neighbour stating the following. People have knocked on their door three times looking for someone from the rental unit. Police and ambulance have been called to the rental unit multiple times. The previous week, police took all occupants of the rental unit outside and arrested one. This incident went on for hours and unmarked police vehicles were parked in the complex for much of the night. The neighbour does not feel safe.

Two notices to the Tenant from May about people coming and going from the rental unit and concern from neighbours.

Photos of police vehicles surrounding the rental unit.

Analysis

Section 56 of the *Act* allows an arbitrator to end a tenancy early where two conditions are met. First, the tenant, or a person allowed on the property by the tenant, must have done one of the following:

1. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. Put the landlord's property at significant risk;
4. Engaged in illegal activity that has (a) caused or is likely to cause damage to the landlord's property (b) 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) jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
5. Caused extraordinary damage to the residential property.

Second, it must be unreasonable or unfair to require the landlord to wait for a One Month Notice to End Tenancy for Cause under section 47 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules, the Landlord, as applicant, has the onus to prove the circumstances meet this two-part test.

Based on the undisputed testimony and submissions of the Representatives and Legal Counsel, as well as the documentary evidence outlined above, I am satisfied of the following.

The police “raided” the rental unit three times in June. During the June 03, 2020 “raid”, police found drugs and 10 guns in the rental unit. Police told the Representatives not to go to the rental unit alone because it is dangerous.

The Tenant has left the rental unit; however, five or six other people are living there. There is graffiti in the rental unit.

Neighbours of the rental unit have complained about the Tenant and/or rental unit. Neighbours are scared and afraid for their lives. People are coming and going from the rental unit at all hours of the night which is disturbing neighbours. One tenant has moved out due to the situation with the rental unit. The Representatives are worried they will lose further tenants.

Based on the above, and in particular the June 03, 2020 police incident, I am satisfied the Tenant, or others the Tenant has allowed on the property, has caused a significant interference or unreasonable disturbance or has seriously jeopardized the safety of other tenants. I am satisfied other tenants are scared and are disturbed by the incidents occurring at the rental unit.

I am satisfied it would be unfair to require the Landlord to deal with the issues raised through a One Month Notice. I find this given the nature of the June 03, 2020 incident which is serious. I am satisfied that police attending the rental unit and locating drugs and guns amounts to an urgent situation.

I am satisfied the Landlord has met their onus to prove the tenancy should end pursuant to section 56 of the *Act*. I issue the Landlord an Order of Possession for the rental unit which will be effective two days after service on the Tenant.

Given the Landlord was successful, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*. The Landlord can keep \$100.00 of the security deposit as reimbursement for the filing fee pursuant to section 72(2) of the *Act*.

Conclusion

The Landlord is issued an Order of Possession effective two days after service on the Tenant. This Order must be served on the Tenant and, if the Tenant does not comply with this Order, it may be filed and enforced in the Supreme Court as an order of that Court.

The Landlord is entitled to reimbursement for the \$100.00 filing fee. The Landlord can keep \$100.00 of the security deposit.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: July 10, 2020

Residential Tenancy Branch