



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On July 7, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an early end of tenancy and an order of possession for the rental unit. The matter was scheduled as teleconference hearing.

The Landlord’s agent (“the Landlord”) attended the hearing; however, the Tenant did not. The Landlord’s agent testified that she is authorized to act on behalf of the Landlord.

The Landlord testified that the Tenant was served with the Notice of Hearing in person on June 16, 2020 at the dispute address. Based on the Landlord’s affirmed testimony, I find that the Tenant was served with the Notice of Hearing in accordance with sections 89 and 90 of the Act and failed to attend the hearing.

The Landlord was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions at the hearing.

Background

The Landlord testified that the tenancy began on September 2019, on a month to month basis. The Landlord testified that rent in the amount of \$500.00 is due each month.

The Landlord testified that the Tenant lives in a one-bedroom in-law suite in the lower part of the residential property. The Landlord testified that the Tenant has his own self-contained unit with its own kitchen and bathroom. The Landlord testified that the tenancy agreement is not in writing.

The Landlord provided testimony that the Tenant was observed coming home at 5:00 am in the morning and has a girlfriend who is staying in the unit on a regular basis. The Landlord testified that the Tenant is leaving the patio door open and that other people have been showing up on the property. The Landlord provided letters from relatives, a neighbor, and a friend of the Landlord indicating that the Tenant is having guests; is arriving home at 5:00 am; has an unclean rental unit; and is leaving his door unlocked with the lights on.

The Landlord testified that approximately a month ago a bear was observed on the residential property and the Landlord is concerned that the bear could have gained access into the house putting the Landlord at risk.

The Landlord testified that a One Month Notice to End Tenancy for Cause was issued to the Tenant in March 2020 but was not pursued by the Landlord due to the covid pandemic.

The Landlord is seeking an early end to the tenancy and an order of possession for the rental unit.

Analysis

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, in the case of a Landlord's application, the Tenant or a person permitted on the residential property by 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 interest 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,

- 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
- 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 or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect.

Based on the testimony and documentary evidence before me I make the following findings:

I accept the Landlords testimony that the parties entered into a tenancy agreement and I find that the Act applies to this tenancy arrangement.

An application for an early end of tenancy is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord.

I find that the reported behavior does not rise to a level where the due process of issuing a notice to end tenancy should not be followed. Under the Act, a Tenant has the right to come and go from a rental unit at their discretion. In addition, the Act provides that a Tenant has the right to have guests in their rental unit. There is insufficient evidence from the Landlord to establish that the Tenant is not maintaining reasonable health, cleanliness and sanitary standards throughout the rental unit.

I am not persuaded that there is an immediate and severe risk to the rental property, or the Landlord.

I note that effective June 24, 2020 the state of emergency order that prevented Landlords from issuing a notice to end tenancy under section 47 of the Act was repealed and Landlords are now able to issue a notice to end tenancy for cause.

The Landlord is now at liberty to issue a One Month Notice to End Tenancy for Cause.

The Landlord's application for an early end of tenancy and an order of possession for the rental unit is dismissed.

Conclusion

The Landlord does not have sufficient evidence to establish that the tenancy should end early due to the Tenant presenting an immediate and severe risk to the rental property, or the Landlord.

The Landlord's application for an early end of tenancy and an order of possession for the rental unit is dismissed.

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: July 07, 2020

Residential Tenancy Branch