



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened as a result of the Landlords' Application for Dispute Resolution, made on July 6, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk.

The Landlords, the Landlords' witness B.P., and the Tenant attended the hearing at the appointed date and time. The Landlords' Application and documentary evidence package was served to the Tenant by posting it to the Tenant's door. The Tenant confirmed receipt. I find the above-mentioned documents were sufficiently served pursuant to Section 71 of the Act. The Tenant did not submit documentary evidence in response to the Application.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Are the Landlords entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?

Background and Evidence

The Landlords testified that the tenancy began approximately two and a half years ago. The Tenant stated that he moved into the rental unit in August of 2018. The parties agreed that the Tenant is required to pay rent in the amount of \$1,000.00 to the Landlords each month. The Tenant paid a security deposit in the amount of \$500.00.

The Landlords stated that they are seeking to end the tenancy early based on the fact that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property. The Landlords stated that on July 7, 2020 the Tenant became aggressive towards the Landlords by punching the car window and exposing himself to the Landlords. The Landlords stated that they have young children and do not want this behaviour to continue any longer. The Landlords' witness B.P. confirmed that she also witnessed the incident.

The Landlord's stated that the Tenant also smokes marijuana outside which is witnessed by the Landlord's children. The Landlords stated that they have found lighters on the rental property which is also a safety risk. The Landlords stated that the Tenant has been late paying rent on several occasions and has notified the Landlords that the dishwasher is broken, which has led the Landlords to believe that the Tenant is damaging the rental unit. Furthermore, the Landlords stated that the Police attended the rental unit following the incident on July 7, 2020 at which point the Police notified the Landlords that the rental unit was a mess.

The Tenant responded by denying that he punched the Landlords' window or exposed himself to the Landlords. The Tenant stated that he was upset that the Landlords served him the Notice of the hearing, therefore, he approached the Landlords to discuss the matter. The Tenant stated that the Landlords' witness is a friend of theirs and is not telling the truth. The Tenant admits to paying rent late on several occasions but denied smoking in front of the Landlords children.

Analysis

Based on the documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the

Act. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the Act, which states:

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...

- (a) *The tenant or a person permitted on the residential property by the tenant had 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 landlords 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 causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End

Tenancy for Cause to take effect. In other words, the situation created by the Tenant must be extreme and require immediate action.

In this case, the Landlords have applied for an order of possession to end the tenancy early based on immediate and severe risk. I accept that the Landlords submitted their Application on July 6, 2020, however, much of the Landlords' testimony relates to an incident which occurred on July 7, 2020, which was after the Application was submitted. During the hearing, the Landlords indicated that the reason for seeking an order of possession was in relation to ongoing concerns regarding the Tenant paying rent late, smoking outside where the Landlord's children can witness the Tenant smoking, and for the Tenant leaving lighters outside.

Based on the testimony and evidence before me in relation to evidence that was prepared in support of the Application which was filed on July 6, 2020, I am not satisfied that the situation is so urgent that it should end earlier than a One Month Notice to End Tenancy for Cause would normally take effect. I find that the Landlord failed to provide sufficient evidence that this tenancy should end pursuant to Section 56 of the Act.

In light of the above, I dismiss the Landlord's Application, without leave to reapply.

Conclusion

The Landlords have provided insufficient evidence to prove the tenancy should end early under section 56. The tenancy will continue until ended 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: July 21, 2020

Residential Tenancy Branch