



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the *Act*), I was designated to hear an application regarding the above-noted tenancy. The landlord applied for

- an order for early termination of a tenancy and order of possession, pursuant to section 56 of the *Act*; and
- an authorization to recover the filing fee, pursuant to section 72 of the *Act*.

I left the teleconference connection open until 9:57 A.M. to enable the tenant to call into this teleconference hearing scheduled for 9:30 A.M. The tenant did not attend the hearing. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only ones who had called into this teleconference.

I accept the landlord's testimony that the tenant was served with the application and evidence (the materials) in person on July 17, 2020 at 2:50 P.M., in accordance with section 89(2)(a) of the *Act*. A witnessed proof of service of Notice of Expedited Hearing (RTB form 9) was submitted into evidence.

Rule of Procedure 7.3 allows a hearing to continue in the absence of the respondent.

Issues to be Decided

Is the landlord entitled to:

1. an order for early termination of a tenancy and order of possession?
2. an authorization to recover the filing fee

Background and Evidence

While I have considered the documentary evidence and the testimony of the attending party, not all details of the submission and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below. I explained rule 7.4 to the landlord; it is his obligation to present the evidence to substantiate his application.

The landlord affirmed the tenancy started on October 15, 2019 and the tenant is still residing at the rental unit. Monthly rent is \$1,550.00, due on the first day of the month. At the outset of the tenancy a security deposit of \$775.00 and a pet damage deposit of \$250.00 were collected. The landlord holds in trust both deposits. The tenancy agreement was submitted into evidence.

The landlord affirmed the tenant has been disturbing all the other tenants in the four-rental unit complex since the beginning of the tenancy. The tenant has issues with alcohol and drugs addiction and has been hosting parties with loud music at her rental unit a few days per week. The parties attendees often are intoxicated, use illicit substances and get involved in altercation. The police and ambulance attended to the rental unit several times and some of the tenant's guests were arrested.

A warning letter sent to the tenant on January 16, 2020 was submitted into evidence. It states:

As you already know, we discussed a couple of times so far, the issues regarding the noise and loud music from your suite.

In multiple occasions the other residents have complained to me as the loud music, coming of your suite, like stereo music, sometimes arguments with your partners of boyfriend, sometime you or someone else crying or swearing over the phone or personally.

On February 19, 2020 a second similar warning letter was sent to the tenant. A third warning letter was sent to the tenant on June 06, 2020 stating the tenancy should be ended for the reasons described on section 56(2) of the Act.

The landlord submitted a letter from another tenant in the rental complex dated May 24, 2020 detailing several incidents related to noise originated in the applicant tenant's rental unit.

The landlord also affirmed the tenant is not responsible with her three cats and there are concerns with Covid19, as the tenant is often hosting large gatherings at her rental unit.

The landlord also affirmed the tenant caused minor damages to the rental unit.

Analysis

Pursuant to Rule of Procedure 6.6, the landlord has the onus of proof to establish, on a balance of probabilities, the reasons to end the tenancy early. This means that the landlord must prove, more likely than not, that the facts stated on the application happened and it would be unreasonable, or unfair to the landlord or other tenants, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect.

Section 56 (2) of the Act states:

(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.

Based on the landlord's testimony and letters dated January 16, February 19 and June 06, 2020 and the neighbour's letter dated May 24, 2020 I find the tenant's actions are not serious and urgent enough to end the tenancy pursuant to section 56 of the Act. I find it is not unreasonable or unfair for the landlord to wait for a notice to end tenancy under section 47 of the Act.

The landlord has failed to provide examples of the tenant's escalating behaviour to support and order of possession under section 56 of the Act. The landlord affirmed the tenant's problematic actions have been happening since the beginning of the tenancy on October 15, 2019 and only submitted this application on July 17, 2020.

Therefore, I dismiss the landlord's application for an early end to the tenancy pursuant to section 56 of the Act.

As the landlord is not successful in this application, the landlord must bear the cost of his filling fee.

Conclusion

I dismiss the landlord's application without leave to reapply. The tenancy continues 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 27, 2020

Residential Tenancy Branch