



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes ET FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for an early end to the tenancy pursuant to section 56;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenants did not attend this hearing, although the line remained open until 10:20 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:30 a.m. The landlords attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. M.H. (the "landlord") represented the landlords.

The landlord testified that on July 4, 2020, copies of the Application for Dispute Resolution and Notice of Hearing were sent to the tenants by registered mail. Subsequently on July 7, 2020, the landlord's evidence package was also sent to the tenants by registered mail. Registered mail receipts were submitted as evidence.

Based on the above evidence, I am satisfied that the tenants were served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 of the Act. The hearing proceeded in the absence of the tenants.

Issues

Is the landlord entitled to an order of possession for an early end to the tenancy?
Is the landlord entitled to recover its filing fee?

Background & Evidence

The rental unit is the upper half of a duplex situated on a 20 Acre farm property. The tenancy began on November 1, 2019 with a monthly rent of \$2300.00 payable on the 1st day of each month.

The landlord submits the tenants threatened to damage the house and submitted a text message in support. In the text, one of the tenants states “this is not going to end well”. The landlord submits this implies the tenants will wreck the house. The landlord submits the tenants have more pets and farm animals on the property than permitted under the agreement. The landlord submits the tenants allow the farm animals in the house and are concerned they will damage the house. The landlord submits the tenants purposefully flooded the septic tank causing them to incur repair costs. The landlord submits the tenants have also purposefully left the garden hose running outside to provide water for horses causing the pump to run dry and seize which also required repairs. The landlord assumes the tenant is doing this in retaliation to the landlord filing a previous dispute application. The landlord submits the tenants also caused damage to a fence. The landlord submits the tenants also have lots of visitors to the house. The landlord also submits that the tenants hung a noose over the balcony which they believe was done to intimidate the tenant residing in the lower half of the house.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord’s application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord’s property in 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.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice for cause to take effect.

Without making a finding on whether or not the landlord has cause to end this tenancy on any of the above grounds, I find that the landlord has not provided sufficient evidence to meet the latter part of the above test.

Based on the testimony and evidence as presented by the landlord, I find it would not be unreasonable, or unfair to the landlord to wait for a One Month Notice for cause to take effect. An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect. The landlord has submitted insufficient evidence to suggest the tenants pose an immediate serious threat to the health and safety of the landlord or other occupants or to the landlord's property.

Accordingly, I dismiss the landlord's application for an early end to the tenancy.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The landlord's application 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 28, 2020

Residential Tenancy Branch