



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Five West Hastings Holdings Ltd. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with a landlord's application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act.

The landlords appeared at the hearing; however, there was no appearance on part of the tenant.

Since the tenant did not appear, I explored service of hearing documents upon the tenants.

The landlord's agents testified that the hearing documents were served to the tenant by posting to the door of the rental unit on August 8, 2020. Service was done by the landlord's agents referred to by initials RR who appeared before me and witnessed by the other agent, referred to by initials SH, who also appeared before me.

Section 90 of the Act deems the recipient to have received the documents three days after posting. I was satisfied the landlord duly served the tenant with notification of this proceeding in a manner that complies with the Act and the tenant is deemed to have received the landlord's Application for Dispute Resolution three days after posting, or August 11, 2020. Accordingly, I continued to hear from the landlord's agents without the tenant present.

Issue(s) to be Decided

1. Has the landlord established a basis for ending the tenancy early and obtaining an Order of Possession under section 56 of the Act?
2. Recovery of the filing fee.

Background and Evidence

The landlord submitted that the tenancy started on March 10, 2020 on a month to month basis. The landlord collected a security deposit of \$480.00 and the tenant is required to pay rent of \$960.00 on the first day of every month.

The landlord seeks to end the tenancy early because the landlord received numerous complaints from other tenants in the residential property that in July 2020 the subject tenant has tried to force himself into their units; has threatened them; and, unreasonably disturbed them. The police have been called several times after the tenant tries to forcefully enter their units.

In addition, in mid-July 2020, the landlord's agent was chased out of the building by the tenant after the landlord's agent told him to stop smoking in the hallway. The landlord's agent described the tenant as being a big man, who was shirtless and likely high on drugs at the time. The landlord's agents submit that the tenant's conduct has caused them to fear for their safety and that of their other tenants. As such, the landlord is of the position this is an urgent matter that necessitates the end of the tenancy as soon as possible.

As documentary evidence, the landlord provided a copy of the tenancy agreement, complaint letters of other tenants, and warning letters issues to the tenant by the landlord's agents.

Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord had issued a 1 Month Notice to End Tenancy for Cause ("1 Month Notice") and grant the landlord an Order of Possession. The landlord must demonstrate cause for ending the tenancy and that it would be unreasonable to wait for a 1 Month Notice to take effect.

Below I have reproduced section 56 of the Act:

- 56** (1) A landlord may make an application for dispute resolution to request an order
- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(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.

The landlord's burden is high as section 56 is intended to apply in the most serious of circumstances.

Upon consideration of all of the unopposed evidence before me, including the testimony of the landlord's agents and the documentary evidence that includes compliant letters of other tenants and warning letters issued by the landlord, I find the landlord has cause to end the tenancy due to the actions of the tenant that include unreasonably disturbing other tenants and significantly interfering with the landlord's right to conduct business as a landlord. Also, I find the threat of physical violence toward other tenants and the landlord's agents to be intolerable and I am satisfied the circumstances warrant an early end of tenancy under section 56 of the Act. Therefore, I grant the landlord's request and I order the tenancy ended effectively immediately upon the tenant receiving this decision or the Order of Possession, whichever occurs first.

With this decision, the landlord is provided an Order of Possession effective two (2) days after service upon the tenant.

I award the landlord recovery of the \$100.00 filing fee. The landlord is authorized to deduct \$100.00 from the tenant's security deposit to recover this award.

Conclusion

I have ordered the tenancy is ended and the landlord is provided an Order of Possession effective two (2) days after service upon the tenants under section 56 of the Act.

The landlord is awarded recovery of the filing fee and is authorized to deduct \$100.00 from the tenant's security deposit to recover this award.

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: August 25, 2020

Residential Tenancy Branch