



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the Landlord's Application filed under the *Residential Tenancy Act*, (the "Act"), for an early end of tenancy pursuant to section 56 of the *Act*. The matter was set for a conference call.

Both Landlords and the three Tenants attended the hearing and were each affirmed to be truthful in their testimony. The Landlords and Tenants were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

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 to be Decided

- Is the Landlord entitled to an early end of tenancy and an Order of Possession, under section 56 of the *Act*?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Landlords testified that the Tenants are selling drugs and offering prostitution service on the rental property. The Landlord testified that in August 2019, a police

officer had verbally advised them that there was illegal activity being conducted on the rental property. The Landlord testified that they had intended to end the tenancy then but that after speaking to the Tenants, they decided not to take any action to end the tenancy at that time. The Landlord submitted a copy of a police report dated August 21, 2019, into documentary evidence.

The Landlords testified that the city had fined them due to illegal activity taking place on the property and stated that they would receive this fine each year that illegal activity is found to take place on the property. The Landlord submitted a copy of an invoiced fine into documentary evidence.

The Landlords also testified that they were approached by a city bylaw officer in June 2020, who had advised them that they had received several complaints about the Tenants dealing drugs from the property. The Landlord testified that the city had verbally indicated that the Landlords could be fined due to the Tenants' behaviour.

The Landlords provided a witness to these proceedings; the witness testified that they had seen a lot of vehicle traffic on their street and that the traffic was due to people coming and going from the rental property. The Witness testified that they had seen the Tenants approach vehicle and exchange something inside the vehicle. When asked, the witness stated that they must be exchanging drugs.

The witness also testified that they had been recorded licence plates of vehicles going into the rental unit and had provided that list to the police. When asked by the Tenants, the witness stated that they were not able to tell any of the vehicles visiting the rental property had been family members of the Tenants. The Witness then stated loudly, that if the Tenants were to have "people coming over to buy drugs should park in front of their house, not my home."

The Tenants testified that they are not engaging in any illegal activity on the property and that the police nor the city have spoken to them regarding any suspected illegal activity on the rental property. The Tenants testified the police attend the property once, due to a breaking that they had reported.

The Tenants also testified that the Landlord has made previous failed attempts to end their tenancy and that they believed this case was just another vexatious attempt to get them to move out.

Analysis

Based on the above, testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an Early End to Tenancy and an Order of Possession 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* for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, a landlord has the burden of proving that:

- There is sufficient cause to end the tenancy such as; unreasonably disturbed another occupant, seriously jeopardized the health, or safety, or a lawful right, or interest of the landlord, engaged in illegal activity, or put the landlord's property at significant risk; and
- That it would be unreasonable or unfair to the landlord or other occupants to wait for a one month notice to end tenancy for cause under section 47 of the *Act* to take effect.

In this case, the Landlords have claimed that the Tenants are engaging in illegal activity on the rental property. Section 56 of the *Act* states the following:

Application for order ending tenancy early

56 (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.

I have reviewed the Landlords' testimony and the documentary evidence submitted to these proceedings, and I find that the Landlord's own evidence calls into question their creditability during these proceedings.

Specifically, the Landlords testified that they had been fined due to the Tenants engaging in illegal activity on the rental property. However, after a review the invoice for the fine, I find that the invoice shows that the Landlords were charged a yearly fee for operating a secondary suite on the rental property and not fined due to illegal activity.

I also noted that the police report submitted into evidence made no mention of illegal activity on the rental property but was instead related to an inspection that the police had attended, conducted by a city bylaw officer, due to a suspected rooming house.

Overall, I find that the Landlords provided inconsistent, contradictory, and dubious testimony throughout these proceedings, which causes me to doubt their credibility on the whole.

As for the witness's testimony, I find their statements were based on speculation as to what was happening on the property—noting that the witness provided no dates of events, nor any firsthand account of seeing illegal activity. I find that the only facts the witness could testify to were that they saw a lot of vehicle traffic in the area and expressed a personal displeasure at guests of the Tenants parking in front of their home.

For the reasons stated above, I find that the Landlord has not provided sufficient or compelling evidence to persuade me that the Tenants are engaging in illegal activity on

the rental property. Consequently, I dismiss the Landlord's application for an early end of tenancy under section 56 of the *Act*.

Conclusion

I dismiss the Landlords' application for an early end of tenancy. This tenancy continues 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: August 7, 2020

Residential Tenancy Branch