



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On June 29, 2020, the Landlord made an Application for Dispute Resolution seeking an early end to this tenancy and an Order of Possession pursuant to Section 56 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Landlord attended the hearing with Z.D. attending as his agent. However, the Tenant did not attend the 33-minute hearing. All parties in attendance provided a solemn affirmation.

Z.D. advised that the Landlord served the Tenant with the Notice of Hearing and evidence package by posting it to her door on July 11, 2020. She and her daughter witnessed service of this package. This package was removed by the Tenant the following day. Based on this solemnly affirmed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Tenant was served the Notice of Hearing and evidence package.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to an early end to this tenancy and an Order of Possession?

- Is the Landlord entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

Z.D. advised that the tenancy started on March 28, 2020, that rent was currently established at \$800.00 per month, and that it was due on the last day of each month. A security deposit of \$400.00 was also paid. A signed tenancy agreement was not created by the Landlord.

She advised that the Tenant and her boyfriend fight a lot and cause many disturbances. During the second month of the tenancy, the police were called due to loud noises and the Tenant broke a bedroom door and a staircase outside the next day. In June 2020, the police were called again, and the Tenant's boyfriend vandalized the wheels on the Landlord's car and also vandalized their daughter's van. To support the Landlord's position, photographs of the damage to the bedroom door and staircase were submitted as documentary evidence. As well, an email from another resident was submitted to corroborate the fighting and loud noises of the Tenant. Furthermore, a copy of a receipt for the Landlord's new tires was submitted as evidence.

On June 27, 2020, she stated that the police were again called due to a fight that the Tenant was having with her boyfriend. She alleges that the boyfriend hid in the bedroom and when the police arrived, he pepper sprayed two officers and escaped. She advised that this incident was reported in the news. She stated that he is known to police, that they are looking for him, and that they are also looking for the Tenant. Apart from police file numbers, the Landlord did not submit any evidence to corroborate this specific incident, or of any other police attendance.

She advised that the Tenant made approximately 20 holes in the walls of the rental unit and that there is "lots of blood" on the walls as well. She stated that the other residents of the house are scared for their safety. However, the Landlord did not submit any evidence to support his position on any of these claims.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the Act that are applicable to this situation. My reasons for making this Decision are below.

Section 56 of the Act establishes the grounds for the Landlord to make an Application requesting an early end to a tenancy and the issuance of an Order of Possession. In order to end a tenancy early and issue an Order of Possession under Section 56, I need to be satisfied that the Tenant, or a person permitted on the property by the Tenant, has done any of the following:

- *significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
- *seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.*
- *put the landlord's property at significant risk;*
- *engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;*
- *engaged in illegal activity that 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;*
- *engaged in illegal activity that 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, **and***

it would be unreasonable, or unfair to the landlord, the tenant 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.

When reviewing the totality of the evidence before me, I understand the concerns of the Landlord; however, I find it important to note that the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

Regarding the Landlord's submissions on the broken door and staircase, I acknowledge that the Tenant or her boyfriend may have done this, but based on what has been presented, I find that the Landlord has not provided any compelling or persuasive

evidence to satisfy the elevated threshold of granting an early end of tenancy based on this damage.

Furthermore, while the Landlord alleges that that Tenant's boyfriend vandalized his car and his daughter's van, the Landlord has not provided sufficient evidence that this was actually committed by the Tenant or by the Tenant's guest.

With respect to the incident where the Tenant's guest allegedly pepper sprayed the police, while I acknowledge the seriousness of this incident, again, based on what has been presented, I find that the Landlord has not provided any compelling or persuasive evidence to prove that this incident did in fact happen.

Regarding the damage to the walls and the blood on them, as well as concerns from other residents about their safety, there was insufficient evidence submitted to demonstrate the damage to the walls, and there was little evidence from any of the other residents to support that they are concerned about their safety.

As the onus is on the Landlord to prove his claims, even though I acknowledge that the Landlord and other residents are likely uncomfortable and disturbed by the Tenant's, or the Tenant's guest's, behaviours and actions to date, under the circumstances described, I find that he has provided scant evidence to warrant ending this tenancy early based on this type of Application. Consequently, I find that the Landlord is not entitled to an Order of Possession and I dismiss this Application in its entirety.

It is possible though that the Tenant or the Tenant's guest have been engaging in actions and behaviours that are aggravating factors that support the formation of the basis to attempt to end the tenancy using a One Month Notice to End Tenancy for Cause.

As the Landlord was not successful in this claim, I find that he is not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

Based on the above, I dismiss the Landlord's Application without leave to reapply.

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 14, 2020

Residential Tenancy Branch