



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On July 18, 2020, the Landlord submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) for an early end of tenancy and an order of possession for the rental unit.

The matter was scheduled as teleconference hearing. The Landlords and Tenants attended the hearing. The Tenants appeared 8 minutes late and were provided a summary of the Landlords’ testimony.

The Landlords and Tenants were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Background

The Landlords testified that the tenancy began on December 1, 2019, on a month to month basis. The Landlord testified that rent in the amount of \$1,750.00 is due by the first day of each month. The Landlord testified that the Tenants paid a security deposit of \$800.00.

The Landlords testified that the Tenants failed to pay all the rent owing under the tenancy agreement for August 2020 and there is also an amount of \$400.00 outstanding since April 2020.

The Landlords testified that the Tenants have additional individuals living in the basement suite without the Landlords’ approval. The Landlord submitted that this is an unreasonable number of occupants and it is a breach of the tenancy agreement.

The Landlords testified that the Tenants have been tampering with the fire / smoke alarms which presents a safety concern. The Landlord testified that on June 5, 2020 a maintenance person re-connected the fire/ smoke alarms.

The Landlords testified that a One Month Notice to End Tenancy for Cause dated July 7, 2020 was issued to the Tenants citing the same reasons as provided above for ending the tenancy. The Landlords did not provide a copy of a One Month Notice to End Tenancy for Cause.

The Landlords testified that they sent a letter to the Tenants about the smoke detectors and additional occupants in July and August 2020. The Landlords provided a copy of the letters.

In reply, the Tenants testified that the unpaid rent is related to the covid 19 issue, and due to the Landlord restricting the service of "Wi-Fi".

The Tenants testified that the Tenants did not disconnect the fire/ smoke alarms.

With respect to unauthorized occupants, the Tenant testified that everyone living in the unit are family members. The Tenant Ms. R.S. testified that she has moved out. She testified that there are eight people living in the three-bedroom unit and she testified that seven people are listed in the tenancy agreement.

The Tenant testified that the Tenants did not receive a One Month Notice to End Tenancy for Cause from the Landlord.

The Landlord was asked why the Landlord applied for an emergency hearing for an early end of tenancy if a One Month Notice to End Tenancy for Cause was issued which cited the same reasons for ending the tenancy. The Landlord replied that she was worried about safety.

Analysis

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, in the case of a Landlord's application, the Tenant or a person permitted on the residential 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 interest 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,
- 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, **and**,
- 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 to take effect.

A Landlord has the right to issue notices to end tenancy for cause for issues including breaches of a tenancy agreement, unapproved occupants; or if the Tenant has put the Landlord's property at significant risk.

While the Landlord submitted testimony regarding the Tenant that is of concern, I find that the Landlord provided insufficient evidence that the Tenant poses an immediate and severe risk to the rental property; other occupants; or the Landlord. I find that the smoke alarms were reconnected in June 2020. I find that it would not be unreasonable to wait for a notice to end the tenancy under section 47 to take effect.

The Landlord's application for an early end of tenancy and an order of possession is dismissed.

The Landlord is at liberty to apply for an order of possession for the rental unit based on issuance of the One Month Notice to End Tenancy for Cause dated July 7, 2020 that she testified was issued.

Conclusion

The Landlord applied for an early end of tenancy and an order of possession. The Landlord provided insufficient evidence that the Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord.

The Landlords' application for an early end of tenancy and an order of possession 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: August 17, 2020

Residential Tenancy Branch