



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was scheduled to deal 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.

Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

On a preliminary matter, I noted that the landlords had named two co-tenants in filing this Application for Dispute Resolution; however, only one tenant was named and signed the tenancy agreement. I determined the female respondent is the tenant's wife and occupant of the rental unit but that she did not sign the tenancy agreement. Accordingly, I excluded her as a named tenant in the style of cause. The tenant's wife remained in the hearing and she was permitted to testify.

Issue(s) to be Decided

Have the landlords established that the tenancy should end early under section 56 of the Act?

Background and Evidence

The tenancy started on February 1, 2019. The landlords collected a security deposit of \$1700.00 and the tenant is required to pay rent of \$3400.00 on the first day over every month.

The rental unit is the upper or main living accommodation located on the property. I heard the rental unit is occupied by the tenant, his wife, his brother and step-son. There

is also a separate basement suite rented to another tenant under a separate tenancy agreement and the basement suite tenant had permitted two additional people to occupy the basement suite.

The landlords stated that they made this Application for Dispute Resolution after receiving notification from the RCMP that the residential property was the location of several police attendances with respect to criminal activity. The landlord pointed to a letter from the RCMP dated June 15, 2020. After receiving the RCMP letter, the tenants contacted the City and determined the best course of action to avoid enforcement action by the City was to follow the recommendation of the RCMP. The landlords testified that the RCMP officer they have been dealing with recommended that they evict the tenants from both of the rental units located on the property.

The tenant and his wife acknowledge there had been some police attendance to the residential property but claimed they are not involved with criminal activity. Rather, the tenant and his wife pointed to the actions of occupants in the basement suite as being responsible for criminal activity.

The landlords acknowledged that the RCMP did not specify which tenant or occupants were involved in the criminal activity. The landlords also testified that they pursued this same type of Application for Dispute Resolution against the basement suite tenant yesterday and they succeeded in obtaining an Order of Possession against the basement suite tenant.

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.

In this case, the landlords rely heavily upon the RCMP letter of June 15, 2020 in support of their Application for Dispute Resolution; however, upon review of the letter I note that it does not indicate the identity of the persons allegedly involved in criminal activity or even recognize there are multiple living units at the property. Had this property contained a single living unit, one could reasonably ascribe the criminal activity to the tenant or persons permitted on the property by the tenant. However, in this case, there are multiple units served by separate tenancy agreements, and the tenant before me denies involvement in criminal activity by him or persons he has permitted to occupy the property. The tenant and his wife ascribe the criminal activity to persons permitted on the property by the basement suite tenant and the landlords do not have evidence to contradict their position. Also of consideration, is that the landlords have obtained an Order of Possession against the basement suite tenant. Therefore, I find I am unsatisfied by the evidence before me that the tenant, or persons permitted on the property by the subject tenant, has acted in such a manner to warrant an eviction under section 56 of the Act.

In light of the above, the landlords' application against the subject tenant is dismissed and the subject tenancy continues at this time.

Conclusion

The landlords' application is dismissed and the subject tenancy continues at this time.

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 18, 2020

Residential Tenancy Branch