



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

The landlord filed an Application for Dispute Resolution on July 20, 2020 seeking an order for an early termination of the tenancy. This is on the basis that the tenants pose an immediate and severe risk to the property, other occupants or the landlord. The matter proceeded by way of a conference call hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the “Act”) on August 20, 2020. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the hearing; the tenants did not.

The landlord stated that they delivered notice of this dispute resolution hearing to the tenants by giving a copy of the notice document generated by the Residential Tenancy Branch. They gave a copy of the document to one of the tenants in the unit. This included the prepared evidence. They stated that tenant acknowledged receiving the document by stating “thank you very much.”

From what the landlord presents here on notifying the tenant of this hearing, I am satisfied they served the tenant notice of this hearing, as they stated, on July 20, 2020.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession that ends the tenancy for cause and without notice by section 56 of the *Act*?
- Is the landlord entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

Background and Evidence

I have reviewed the oral and written evidence before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this section. That is, I consider only material that is relevant to the landlord's application for an early end of the tenancy for cause. After taking an oath from the landlord, I gave them the opportunity to speak to the issue.

The landlord confirmed the details of the tenancy agreement they provided as evidence for this hearing. The start date was July 19, 2019. The tenants pay \$975.00 per month on the first day of each month. A security deposit of \$487.50 was "paid at a later date". Both landlord and the tenants signed this agreement on July 25, 2019.

The landlord gave evidence to show how they feel the conduct of the tenant is the reason to end the tenancy in an expedited fashion. This involves the tenant not paying rent "months ago". The tenants were also supposed to have natural gas billed to them separately; however, they refused to do that. They owe \$2,600.00 for 2.5 months of past rent due. Additionally, they owe \$1,878.00 in gas bills.

The landlord stated the urgency to this application is that of the financial risk. Additionally, the unit is part of a four-plex, and the tenants in the unit in question here do not get along with the other units. In short, this is "not a safe place to be." Additionally, the tenants that are subject to the early termination of tenancy are "infighting" which adds tension to the situation.

The tenants did not attend the hearing and did not submit documentary evidence for consideration.

Analysis

Section 56 of the *Act* provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 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 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.

Section 56(2) sets out two criteria. First, the landlord must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the landlord to wait for a set-period Notice to End Tenancy to take effect under a different section of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

56(2) . . .

- (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 . . .

I have considered the evidence of the landlord concerning the conduct of the tenants.

The landlord here presents some evidence that the tenant is leaving amounts owing on rent and utilities. The landlord presents oral testimony only on the tenants conduct towards other property occupants, and their infighting. However, I find this conduct is not on a level with what is set out in section 56(2). There is no jeopardy to health or safety, or risk to property. While there is some evidence of interference and disturbance to other occupants, I find it is not immediate or threatening to others and does not pose a severe risk. Applications of this sort are for very serious breaches; however, I do not see a serious breach in place here which threatens other occupants or the property of the landlord.

In conclusion, I find the evidence presented here on the tenants' behaviour does not rise to a level that is sufficient to end the tenancy in this manner. This is based on the evidence presented by the landlord in this hearing.

I understand the issue presents difficult circumstances for all parties involved and is exacerbated by the conduct of the tenants. Given the section of the legislation the landlord has applied on to end the tenancy, an imminent danger with palpable effects is not proven in the evidence. The landlord has not shown that this means of ending the tenancy must happen over and above that of other sections applicable in the *Act*.

An expedited hearing process is for circumstances where there is an imminent danger to the health, safety, or security of a landlord or tenant, so significant that it would warrant the tenancy end sooner than had the landlord issued a One Month Notice to End Tenancy for Cause. I find that the evidence and oral testimony presented by the landlord does not show this to be the case.

I find the landlord has not proven there is a valid reason to justify an order that ends the tenancy early by application of section 56. I am not satisfied that the matter at hand is one that is above what would normally be covered by a section 47 one month Notice to End Tenancy.

Because the landlord was not successful in this application, they are not entitled to a return of the application filing fee.

Conclusion

The landlord's application for an early end of tenancy and an order of possession for the rental unit is dismissed 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 21, 2020

Residential Tenancy Branch