



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THE BLOOM GROUP COMMUNIT SERVICES
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

On August 12, 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”).

J.F. attended the hearing as an agent for the Landlord. The Tenant attended the hearing as well. All parties provided a solemn affirmation.

J.F. advised that the Tenant was served the Notice of Hearing and evidence package by registered mail on August 12, 2020, and the Tenant confirmed that he received this package. Based on the undisputed 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. As such, I have accepted the Landlord’s evidence and will consider it when rendering this Decision.

The Tenant advised that he did not submit any evidence for consideration on this file.

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?

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.

All parties agreed that the tenancy started on February 1, 2005, that rent was currently established at \$348.00 per month, and that it was due on the first day of each month. Neither a security deposit nor a pet damage deposit were paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

With respect to the Landlord's request for an Order of Possession based on an early end of tenancy, J.F. advised that the Tenant has allowed an excessive number of guests into the building during the COVID pandemic. He referenced a buzzer report submitted as documentary evidence, which demonstrated that the Tenant allowed 411 people into the building between April 5, 2020 and July 24, 2020. This is an average of 10 to 15 guests per day, which is "not normal". Given that the building is full of seniors and disabled people, this increased volume of people in the building puts all of the residents at risk of potentially being exposed to the coronavirus.

He stated that many of the guests that the Tenant allows into the building are shirtless or homeless, that this has led to an increase in drug trafficking out of the Tenant's rental unit, that these guests illegally use drugs in the building, and that one of the guests is a known drug dealer that has a documented violent past. While he has not submitted any evidence to corroborate these allegations, he has provided multiple complaint letters from residents of the building advising him of their concerns. He advised that he is working with the police to confirm the allegations regarding the drug activity.

In addition, he advised that a resident of the building notified him that the Tenant had swung a bat at this resident. The bat was confiscated and handed over to the police. The police completed a report, but J.F. is not sure if charges were laid against the Tenant. He submitted an email from the alleged victim supporting this claim, and J.F. reiterated that all of the residents of the building are concerned for their safety due to fears of the behaviours of the Tenant's guests.

The Tenant advised that he may have let in 411 guests into the building, but this is only 2.7 people per day over the 150-day time frame. He stated that he suffers from many medical illnesses and these people assist him in doing everyday activities. He has "cut all of those people out of his life" and he now has one or two people helping him. He

confirmed that he has had five to six people in the rental unit and that he has had some noisy nights; however, he has not received any complaints from any neighbours.

He stated multiple times that he has “messed up a little bit this year” and that he was sorry. He also advised that the person that has been accused of being a known drug dealer is not a drug dealer, but this person is scary and took over the rental unit for a time. However, the Tenant does not associate with him anymore and does not allow him into the building.

Regarding the incident with the baseball bat, he stated that this never happened, that the police were never called, and that there are no witnesses to support the Landlord's claim. He advised that he organized a picnic in the courtyard with his girlfriend and daughter, and they wanted to play baseball. He claimed that they never showed up, but another resident of the building appeared and threatened him. However, he reiterated that despite this, he never swung the bat at this person.

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 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, when two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

With respect to J.F.'s submissions regarding the number of guests the Tenant allows into the rental building, as the parties were informed during the hearing, the Landlord does not have the right to restrict the number of guests that a Tenant can allow into the building. While I acknowledge that due to the current pandemic, recommendations have been put in place to reduce people's social circles, I do not find that the number of guests that the Tenant allows into the building would satisfy the elevated threshold of an early end of tenancy Application.

Regarding his submissions about the complaints from other residents of the alleged drug activity in the building and the residents' fear for their safety because of the guests that the Tenant has allowed in the building, I acknowledge that the other residents are concerned. However, apart from complaint letters, I do not find that the Landlord has submitted sufficient evidence to confirm that there is illegal drug activity or that there is a genuine concern for the residents' safety. Again, as the threshold for substantiating an early end of tenancy Application is considerably higher than that of an Application based on a One Month Notice, I do not find that the Landlord has met this burden by relying on complaint letters solely.

Finally, with respect to the baseball bat incident, I found the Tenant's account of planning to play baseball to be dubious, suspect, and unlikely. While the nature of this incident of physically assaulting another party would be grounds for an early end of tenancy Application, I find it important to note that the burden of proof is on the Landlord to satisfy the high threshold of this specific type of Application. As the Landlord has submitted one email providing one account of an incident, which was refuted by the Tenant, without other corroborating evidence, I am not satisfied that the Landlord has met the burden of proof to confirm that this incident did indeed happen.

When reviewing the totality of the evidence before me, while the actions and behaviours of the Tenant may support the formation of the basis to attempt to end the tenancy using a One Month Notice to End Tenancy for Cause, I do not find that the Landlord has submitted compelling or persuasive evidence that the Tenant's actions or behaviours either happened, or that they constitute a threat that satisfies the elevated threshold of an early end of tenancy Application.

However, I strongly caution the Tenant that he is on formal notice that any continued, escalated behaviours or actions that are unacceptable or inappropriate, may jeopardize his tenancy.

As the onus is on the Landlord to prove these claims, under the circumstances described, I find that the Landlord has provided insufficient 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.

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: September 3, 2020

Residential Tenancy Branch