



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CRYSTAL RIDGE MANOR LTD and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

On September 1, 2020, the Landlord submitted an Application for Dispute Resolution under Section 56 of the *Residential Tenancy Act* (the “Act”) requesting that the tenancy end early and for an Order of Possession for the rental unit, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

Both the Landlord’s representatives and the Tenant’s representatives attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

Issue to be Decided

Is the Landlord entitled to an early end of tenancy and an Order of Possession pursuant to Section 56 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with Section 72 of the Act?

Background and Evidence

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Both parties agreed to the following terms of the tenancy:

The month-to-month tenancy began on September 13, 2020. The rent is \$1,83.84 and due on the first of each month. The Landlord collected and still holds a security deposit in the amount of \$817.50.

The Landlord testified that the Tenant has been a resident for five years in the independent-living, residential property. During that time, there has been a significant cognitive decline in the Tenant.

The Landlord described incidents and submitted a timeline that documented several occurrences where the Tenant attempted to leave the residential property, demonstrated noteworthy confusion, and bothered other tenants. One incident occurred on July 29, 2020, where the Tenant grabbed the wrist of another elderly tenant and wouldn't let her go, claiming that she was his partner (a person by another name). The Tenant was so uncooperative with staff that they called both the police and the Tenant's family to assist in resolving the matter.

The Landlord stated that on July 31, 2020, they served the Tenant a One Month Notice to End Tenancy with an effective date of August 31, 2020. When the Landlord learned that the Tenant had disputed the One Month Notice and that the subsequent hearing would be on October 6, 2020, the Landlord applied for an early termination of the tenancy as they thought the October 2020 hearing would be too late.

The Landlord has been in communication with the Tenant's family and have conveyed that they (the Landlord) cannot provide the proper care for the Tenant and that the family should consider placing the Tenant into an appropriate care home.

In relation to this early termination application, the Landlord has requested an Order of Possession as they believe that Tenant has unreasonably disturbed another tenant and that it would be unreasonable to wait for the notice to end the tenancy under section 47 of the Act to take effect.

The Tenant's family testified that they are aware of the Tenant's progressive cognitive decline; however, submitted that the Tenant has recently been assessed and it has been determined that changes to medication have improved and may continue to improve the behavioural concerns of the Tenant.

The Tenant's family stated, regardless of medication changes, that they are actively looking to transition the Tenant to a higher care facility but are worried about an interim placement as they feel it would be disruptive to the Tenant's overall health.

The Tenant's family submitted an opinion of a community health nurse who recommended that if the Tenant's behaviour remains stable, that he can likely be managed at the current residential property until a preferred facility is available.

The Tenant's family stated that there has not been a significant incident to justify an early termination of the tenancy. The family is attempting to work with the management of the residential property in an attempt to negotiate more time to place their father, the Tenant, into the appropriate level of care.

Analysis

In this case, the Landlord stated that the Tenant's cognitive decline has exceeded their capacity to provide adequate care for the Tenant, and that the Tenant has significantly interfered with or unreasonably disturbed another occupant of the residential property.

Section 56 of the Act establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy, and to request an Order of Possession on a date that is earlier than the tenancy would end if a Notice to End Tenancy were given under section 47 of the Act. 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.

The causes for ending the tenancy early, as listed above, are identical to the causes for which a landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the landlord has the grounds to end the tenancy for cause is that when a landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the landlord must also prove that it would be unreasonable or unfair to the landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the tenant must be extreme and require immediate action.

Based on the testimony and evidence before me, I find that the Tenant was involved in an incident, on July 29, 2020, where he unreasonably disturbed another occupant of the residential property; however, I am not satisfied that the situation is so urgent that the tenancy should end earlier than a One Month Notice to End Tenancy for Cause would normally take effect. I find that the Landlord failed to provide sufficient evidence that this tenancy should end pursuant to Section 56 of the Act.

As a result, I dismiss the Landlord's Application to end the tenancy early.

I find that the Landlord's Application for an early end of tenancy does not have merit and that the Landlord is not entitled to recover the cost of the filing fee for this Application for Dispute Resolution.

Conclusion

I dismiss this Application for Dispute Resolution 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 21, 2020

Residential Tenancy Branch