



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on August 6, 2020 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk.

The hearing was scheduled for 9:30 A.M. on September 8, 2020 as a teleconference hearing. The Landlord attended the hearing at the appointed date and time and provided affirmed testimony. No one appeared for the Tenant. The conference call line remained open and was monitored for 11 minutes before the call ended. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the Landlord and I were the only persons who had called into this teleconference.

The Landlord testified the Application and documentary evidence package was served to the Tenant by posting it to the Tenant's door on August 11, 2020. Based on the oral and written submissions of the Applicant, and in accordance with sections 89 and 90 of the *Act*, I find that the Tenant is deemed to have been served with the Application and documentary evidence on August 14, 2020. The Tenant did not submit any documentary evidence in response to the Application.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?

Background and Evidence

The Landlord testified that the tenancy began on November 3, 2019. Currently, the Tenant pays rent in the amount of \$1,000.00 which is due to the Landlord on the first day of each month. The Landlord stated that the Tenant paid a security deposit in the amount of \$500.00 and a pet damage deposit in the amount of \$100.00, both of which the Landlord continues to hold. The Landlord stated that the Tenant continues to occupy the rental unit.

The Landlord stated that she is seeking to end the tenancy early as the Tenant and their guests have;

“significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health and safety or lawful right of another occupant or the landlord, and put the Landlord’s property at significant risk.”

“engaged in illegal activity that has or is likely to: damage the Landlord’s property, adversely affect the quiet enjoyment, security, safety, or physical wellbeing of another occupant, and jeopardized a lawful right or interest of another occupant or the Landlord.”

The Landlord stated that sometime in April 2020, someone had started a fire at the Tenant’s front door step. The Landlord stated that the Police and Fire Department determined that it was a suspected arson who deliberately started the fire. The Landlord provided a picture of the Tenants front door following the incident.

The Landlord stated that the Tenants have guests who attend the rental unit frequently and that there is screaming and suspected drug use occurring in the rental unit and in the neighbourhood. The Landlord stated that the neighbours have complained as well.

The Landlord stated that some of the Tenant’s guests attend the Landlord’s home and that it is unclear as to what the purpose of the visit is for. The Landlord stated that she has served the Tenant with a One Month Notice to End Tenancy, however, is seeking to end the tenancy earlier than the effective date of the One Month Notice given the increase of incidents and the fact that the Landlord has two young children who are living in fear.

Analysis

Based on the unchallenged and affirmed documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

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...

- (a) *The tenant or a person permitted on the residential property by the tenant had 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 landlords 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 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.

In this case, the Landlord has applied for an order of possession to end the tenancy early based on immediate and severe risk. During the hearing, the Landlord indicated that the reason for seeking an order of possession was in relation to ongoing concerns regarding yelling, suspected drug use, and frequent guests attending the rental unit. The Landlord described an incident in which the Tenant has a fire at their front door sometime in April. In this case, I find that the Landlord provided insufficient evidence to demonstrate that the Tenant or their guests were responsible for the fire.

Based on the testimony and evidence before me, I am not satisfied that the situation is so urgent that it 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.

In light of the above, I dismiss the Landlord's Application, without leave to reapply.

Conclusion

The landlord has issued a one month notice to end tenancy for cause; however, they had insufficient evidence to prove it should end earlier under section 56. The tenancy will continue until ended in accordance with the Act.

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 08, 2020