



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession, and to recover the filing fee from the Tenant.

The Landlord and the Tenant both attended the hearing and provided testimony. The Tenant acknowledge receiving the Landlords' Notice of Hearing and evidence package on September 9, 2020. I find the Landlords sufficiently served the Tenant with their application and evidence. The Tenant did not submit any documentary evidence for this hearing.

All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make oral submissions to me. 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.

Issue(s) to be Decided

- Are the Landlords entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to

determine the issues identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

Both parties agree that the tenancy began several years ago. However, the relationship has degraded significantly in the last few months.

The Landlord explained that there are several ongoing issues with the tenancy. However, at this point, he is most concerned with the accumulation of cars all over the property. The Landlord stated that he is concerned about the environmental impacts of the Tenant storing and working on vehicles in the yard, as it has the potential to destroy trees and landscaping. The tenancy agreement allows for 2 cars. However, the Landlord counted approximately 12 cars recently.

The Tenant stated that she is happy to get rid of the cars, and stated she is in the process of reorganizing so that no damage is done to the yard.

The Landlord stated that he is also concerned with two broken (cracked) windows in the house, and that the Tenant hasn't repaired them. The Landlord stated that the window the Tenant has offered to put in is used and not sufficient.

The Tenant acknowledged the broken (cracked) windows and stated she is willing to replace them. The Tenant stated she is in the process of procuring replacement windows. However, she does not feel it is an urgent situation.

The Landlord also pointed out that there was an incident on August 20, 2020, where the Tenant's boyfriend was shot in the stomach (off property), and there was a follow up police investigation, including a search warrant on the property for the days following the shooting.

The Tenant explained that when they came home from being out of town, they noticed that their car had been vandalized. After reviewing their video footage, they recognized who it was, and drove to that individual's house to confront the person they believed did the vandalism on their car. The Tenant stated that, as her boyfriend was driving up to the suspected vandal's house, he was shot in the stomach while he was driving. The Tenant stated that they immediately retreated back to the rental property, and called for paramedics. The Tenant stated that while they were waiting for help, the Tenant's boyfriend's friend got in a motorcycle accident on his way over to help them. The Tenant stated the whole night was exceptional, but it was not their fault they got shot, or that things escalated as much as they did.

The Landlord stated that they believe the Tenants run a drug house, and a “chop shop” in the front yard. The Landlord did not provide any evidence to support this suspicion. The Tenant denies they have any stolen property, that they do any drugs or that they are in any way a threat. The Tenant stated they have never been charged with a crime, nor was anything found when the police conducted their search warrant, following the shooting on August 20, 2020. The Tenant stated she feels targeted by a few people in the small community they live in.

The Landlord stated that the Tenant has also stopped paying rent, so the situation is getting worse.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; and, 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 to take effect.

I have carefully considered the evidence of both parties and I make the following findings in this dispute. It is clear based on the testimony from both parties that the relationship between the Tenant and the Landlord has degraded significantly.

The first issue raised by the Landlord was regarding the vehicles parked all over the lawn. I note that the Tenancy Agreement provided into evidence shows the Tenant is

only entitled to park two vehicles. The Tenant does not dispute she has many more than this. I note the Landlord is concerned about tree damage and environment concerns. However, I find there is insufficient evidence to show that these vehicles pose a significant environmental concern, or that the nearby trees are at risk due to these cars. I accept that parking vehicles all over the yard can be unsightly, and may pose some risks to the land. However, I do not find the Landlord has sufficiently demonstrated that this issue is immediate, significant, and severe enough as to warrant an early end to the tenancy under section 56 of the Act.

With respect to the Landlords' allegations of the rental unit being a drug house, and vehicle "chop shop", I find there is insufficient evidence to support this claim. I accept that there have been police in and around the property, particularly after the shooting on August 20, 2020. However, there is no evidence to support that there is criminal activity or stolen property such that it warrants an early end to the tenancy.

The incident on August 20, 2020, was clearly a significant event. It made the local newspaper, someone was shot, and police were involved. However, I accept the Tenant's explanation regarding what happened. The incident appears to have occurred after the Tenant followed up with the person they believed vandalized their vehicle. That being said, I find the Tenant's decision to go and personally confront the person they believe vandalized their car is questionable, and lacked sound judgement, particularly late at night. However, I note the most problematic part of this incident was based on the conduct of the individual who shot at them from his property (down the road).

In any event, I accept that this was a serious and unfortunate event, but I note it appears to be largely isolated, and mostly as a result of another individuals actions and the decision to shoot his large gun. Despite not exercising the best judgement when deciding to follow up with the suspected vandal, I find the Tenants actions were not criminal or sufficiently egregious as to warrant an early end to the tenancy, as the most problematic parts of this incident were both off the property, and a result of another individuals actions.

I also note the Landlord has raised issues regarding the broken windows, and unpaid rent. However, I find there is insufficient evidence to show that either of these issues pose an immediate and severe risk to the rental property or the Landlord.

The Landlord is at liberty to issue a Notice to End Tenancy for non-payment of rent, for Cause, or for any other matter. However, these matters are not part of today's proceeding.

In terms of today's application, I find the Landlord has not sufficiently substantiated that there is cause to end the tenancy in an expedited manner, pursuant to section 56 of the Act. As a result, I am unable to end this tenancy early, without further evidence from the Landlord.

Given the Landlord was not successful in this hearing, I decline to award them the recovery of the cost of the filing fee she paid to make this application.

Conclusion

The Landlord has not met the burden to prove the tenancy should end early. Therefore, the Landlord's Application is dismissed without leave to re-apply and the tenancy will continue until such time it is 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 25, 2020

Residential Tenancy Branch