



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to section 56 of the *Residential Tenancy Act* (the *Act*) for an early end to this tenancy and an Order of Possession.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:55 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The assistant/witness (the assistant) provided assistance when the landlord needed help with the English language and also provided some sworn testimony. 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 teleconference system that the landlord, their assistant, and I were the only ones who had called into this teleconference.

The landlord gave undisputed sworn testimony that they served the tenant with the dispute resolution hearing application package, the Notice of Hearing and their written evidence by registered mail on August 28, 2020. They provided the Canada Post Tracking Number to confirm this registered mailing. In accordance with sections 88, 89 and 90 of the *Act*, I find that the tenant was deemed served with these documents on September 2, 2020, the fifth day after their registered mailing.

Issues(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?

Background and Evidence

The parties signed a Residential Tenancy Agreement (the Agreement) on March 31, 2020 for a month-to-month tenancy for one bedroom in this two bedroom plus den rental unit that commenced on March 16, 2020. Monthly rent was originally set at \$800.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$400.00 security deposit paid on March 16, 2020. The landlord testified that the monthly rent was reduced to \$750.00 after this tenancy began as a means of assisting the tenant during the global pandemic.

The landlord testified that they issued a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on September 2, 2020 for rent that became owing on September 1, 2020. They said that the tenant paid the \$750.00 rent for September 2020 after receiving the 10 Day Notice. The landlord testified that rent remains owing for some of the months prior to September 2020, a period when the State of Emergency to address the coronavirus global pandemic was in place.

The landlord testified that they have not issued any 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) as they were unaware that any such Notice existed or was necessary to end a tenancy.

In their written evidence and sworn testimony, the landlord and their assistant outlined a number of reasons for seeking an early end to this tenancy. These included but were not limited to:

- Two incidents where a toilet in a bathroom shared with one of the other two tenants in this rental unit was damaged;
- Text messages from the tenant that the landlord considered harassment;
- Threats by the tenant that they might be prompted to kill themselves;
- The tenant's destruction of a table, a light and light fixtures;
- Alleged harassment of one of the other tenants in this rental unit;
- The tenant's alleged breaking of various building regulations;
- The tenant's breaking of the Agreement by having a cat on the premises.

The landlord confirmed that the tenant has not made any direct threats against the landlord, nor is the landlord aware of any threats against other tenants who live in this rental unit. However, the landlord maintained that the tenant has mental health issues and cannot live with other people in this shared two bedroom plus a den rental unit with two other tenants.

The assistant gave sworn testimony that they saw the condition of the shared bathroom when the tenant was keeping a cat in that bathroom. The assistant said that there was considerable cat feces on the floor of the bathroom and that the condition of the bathroom was “disgusting.”

Analysis

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 the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord’s notice for cause. 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.

In considering this matter, I find that the issue of most concern was the tenant’s care for the bathroom they share with one of the other tenants in this rental unit. However, on the basis of the assistant’s testimony it would appear that the tenant no longer keeps either a cat or a dog in the rental unit. Thus, it would seem that the problems presented by cat feces in the shared bathroom would no longer be at issue.

As explained to the landlord at the hearing, an eviction on the basis of an early end to a tenancy and without the issuance of a 1 Month Notice is an option available to landlords

in extreme situations where it would be unreasonable or unfair to allow the tenancy to continue until a properly served 1 Month Notice can take effect. Many people have mental health issues, and the mere presence of a mental health illness is not sufficient to end a tenancy early.

After reviewing the landlord's written evidence and the sworn testimony provided by the landlord and their assistant, I find that the landlord has not established the second part of the test outlined above in section 56 of the *Act*. That is to say that the landlord has not demonstrated to the extent required that 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 tenancy for cause under section 47 of the *Act* to take effect. For these reasons, I dismiss the landlord's application for an early end to this tenancy.

Conclusion

I dismiss this application for an early end to this tenancy. This tenancy continues 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 25, 2020

Residential Tenancy Branch