



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Macaulay Manor
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

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

KR and JB attended the hearing on behalf of the landlord in this hearing, while EC represented the tenant. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The tenant's agent confirmed receipt of the landlord's dispute resolution application ('Application'). In accordance with section 89 of the *Act*, I find that the tenant duly served with the Application. All parties confirmed receipt of each other's evidentiary materials.

At the beginning of the hearing, both parties clarified the proper spelling of the tenant's name. The tenant's name is spelled differently in the documents included in the evidentiary materials. As neither party was opposed, the landlord's application was amended to include the alternative spelling of the tenant's name.

Issues(s) to be Decided

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

Background and Evidence

This month-to-month tenancy began on August 1, 2011, with monthly rent current set at \$839.00, payable on the first of every month. The landlord collected a security deposit in the amount of \$380.00, which they still hold.

The landlord is seeking an early end to this tenancy as the named adult occupant, EM, has caused the landlord and other tenants in the building to fear for their personal safety. The landlord provided undisputed testimony that EM has been involved in multiple incidents in the building which has included physical violence against other tenants, and the named tenant in this dispute. The incidents had escalated to the point that the tenant was found unconscious and bloody outside her rental unit by another tenant, and the attendance of armed police. The landlord testified that these repeated incidents have been extremely traumatic for the 100+ tenants who reside in the 51 unit building, as well as the staff.

EM is currently no longer residing with the tenant, and is bound by an Order of the Court with release conditions not to have any contact, directly or indirectly, with the tenant, and not to attend within 100 metres of the residence. Both parties confirmed that EM has breached this order by attempting to call the tenant.

Agent for the tenant testified that the matter is still before the criminal courts, and that it is anticipated that EM will continue to be bound by the same conditions.

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, or a person permitted on the residential property by 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 landlord has not issued any 1 Month Notices for Cause pursuant to section 47 of the *Act*.

Based on the evidence before me, I am satisfied that the other named occupant in the rental unit, EM, has caused a significant disturbance to other tenants in this building, and have jeopardized the safety and well-being of others.

The second test to be met in order for a landlord to obtain an early end to tenancy pursuant to section 56 of the *Act* requires that a landlord demonstrate 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 the tenancy under section 47" for cause to take effect.

I have considered the serious and violent nature of the incidents that have taken place during this tenancy, which all relate to the adult occupant EM. Although the landlord may apply to end a tenancy because of a person that the tenant has permitted on the property has engaged in the above-mentioned behaviours, I am satisfied that EM is not currently residing at the rental unit, and is bound by conditions not to attend within 100 metres of the residence. Although both parties confirmed that EM had attempted to contact the tenant, I am satisfied that EM has not attended the property where the tenant still resides.

Although the possibility that EM may return to the property is concerning, I find that the landlord has not provided sufficient evidence to support that EM continues to pose an immediate or significant threat to the landlord or other residents in the building.

I find that the landlord failed to provide sufficient and compelling evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause under section 47 of the *Act* to be unreasonable or unfair. For these reasons, I dismiss the landlord's application for an early end to this tenancy with leave to reapply.

Conclusion

I dismiss the landlord's application with 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: October 27, 2020

Residential Tenancy Branch