



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt with the Landlords' Application filed under the *Residential Tenancy Act* (the "Act") for an early end of tenancy pursuant to section 56 of the *Act* and to recover the cost of filing the application from the Tenants. The matter was set for a conference call.

The Landlord and their Agent (the "Landlord") attended the hearing and were each affirmed to be truthful in their testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified the Application for Dispute Resolution and Notice of Hearing had been posted to the front door of the rental unit on September 26, 2020. The Landlord submitted three pictures as proof of service. I find that the Tenants have been duly served in accordance with the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

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.

Issues to be Decided

- Are the Landlords entitled to an early end of tenancy and an Order of Possession, under section 56 of the *Act*?
- Are the Landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

The Landlord testified that they had received several fines from the city due to the Tenants' breach of local by-laws. The Landlord submitted a copy of the fines into documentary evidence.

The Landlord also testified that the police attend the rental unit on a daily; however, when asked by this arbitrator, the Landlord was unable to provide details regarding the police visits to the property.

The Landlord testified that they had received several complaints from neighbours regarding the Tenants.

The Landlord also testified that they had entered the rental unit about four months ago and that when they entered, they found a lot of damage.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an Early End to Tenancy and 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 of the *Act* for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, a landlord has the burden of proving that:

- There is sufficient cause to end the tenancy such as; unreasonably disturbed another occupant, seriously jeopardized the health, or safety, or a lawful right, or interest of the landlord, engaged in illegal activity, or put the landlord's property at significant risk; and
- That it would be unreasonable or unfair to the landlord or other occupants to wait for a one month notice to end tenancy for cause under section 47 of the *Act* to take effect.

In this case, while the Tenants conduct may have been disturbing to others, I find the circumstance of this case are not so significant or severe that it would have been

unreasonable for the Landlord to have to wait for a One Month Notice to take effect if there was sufficient cause to end the tenancy. Therefore, I find that the Landlord has fallen short of the standard required to obtain an early end of tenancy under section 56 of the *Act*.

Therefore, I dismiss the Landlords' application for an early end of tenancy under section 56 of the *Act*, as I find it neither unreasonable nor unfair that the Landlords would need to wait for a One Month Notice to take effect and for the required hearing process under that notice.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlords have not been successful in their application, I find that the Landlords are not entitled to recover the \$100.00 filing fee paid for this hearing.

Conclusion

I dismiss the Landlords' application for an early end of tenancy and to recover their application fee. 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: November 13, 2020

Residential Tenancy Branch