



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

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*. The matter was set for a conference call.

The Landlord and their Attorney (the "Landlord") attended the hearing, the Landlord was affirmed to be truthful in their testimony. As the Tenant 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 that the Application for Dispute Resolution and Notice of Hearing had been personally served to the Tenant on August 1, 2020. The Landlord submitted a proof of service form signed by their witness, into documentary evidence. I find that the Tenant had 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.

Issue to be Decided

- Are the Landlords entitled to an early end of tenancy and an Order of Possession, under section 56 of the *Act*?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Landlord testified that they think the Tenant is using and selling drugs from the rental unit. The Landlord testified that they have found the Tenant passed out due to drug use and that a lot of people stop by for short visits at all hours of the night and day.

The Landlord testified that the Tenant's guests had verbally threatened them and had damaged the property and stolen things from the property.

The Landlord testified that they have received complaints from the neighbours, that they had found live pistol rounds in the hallway outside of the rental unit and several items have gone missing from the rental property that they believe the Tenant or their guests have stolen. The Landlord testified that they have tried to have the local police assist them with the Tenant but that they refused.

The Landlord testified that their family used to live on the property but that they had to leave due to safety concerns caused by the Tenant and the Tenant's guests. The Landlord submitted six witness statements into documentary evidence to support their application.

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.

Section 56 of the *Act* provides an opportunity for a landlord to end a tenancy without the need for issuing a Notice, in circumstances when a tenant has done something so wrong that the need to wait for a Notice to take effect would be unreasonable. In this case, while the Tenant's 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 Landlords have 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 Landlord would need to wait for a One Month Notice to take effect and for the required hearing process under that notice.

Conclusion

I dismiss the Landlord's application for an early end of tenancy pursuant to section 56 of the *Act*. 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 17, 2020

Residential Tenancy Branch