



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 the *Residential Tenancy Act* ("the *Act*") for an early end to this tenancy and an Order of Possession pursuant to section 56.

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 confirmed receipt of the landlord's dispute resolution application ('Application') and evidence. In accordance with sections 88 and 89 of the *Act*, I find that the tenant duly served with the Application and evidence. The tenant did not submit any written evidence for this hearing.

Issues(s) to be Decided

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

Background and Evidence

This fixed-term tenancy began on October 1, 2020, with monthly rent set at \$1,150.00 as per the written tenancy agreement submitted by the landlord. The landlord collected a security deposit in the amount of \$575.00, which the landlord still holds.

The landlord is applying for an Order of Possession pursuant to section 56 of the *Act* as he is concerned about the actions of the tenant and the occupants she had allowed into the home. The landlord testified that the tenant is engaged in drug use and illegal acts that have jeopardized the safety and well being of other tenants and occupants in the 3 suite duplex. The landlord submitted a clip of a news article he had obtained online that names the tenant as a party involved in an incident that involved that resulted in the tenant being charged with possession of property obtained by crime over \$5,000.00.

The article states that police believe that a stolen pick-up truck had collided with an ambulance and another vehicle. The landlord also submitted several police file numbers that relate to noise complaints for the period of October 22, 2020 through to October 31, 2020. The landlord also submitted a video in his evidentiary materials taken from outside the home which contains the recording of several voices singing “happy birthday” to the tenant inside the home.

The landlord also expressed concern that the tenant has not paid rent for November 2020. The landlord confirmed he has not issued any Notices to End Tenancy to the tenant.

The tenant testified in the hearing that she is not disputing that the events took place, but disputes that the incidents justify the early termination of this tenancy under section 56. The tenant testified that she does suffer from alcohol dependency, but denies the use of drugs on the premises. The tenant testified that she has been clean and sober since the incident, which took place on or about October 28, 2020. The tenant testified that the matter involving the charge of possession of property obtained by crime over \$5,000.00 is currently before the court, and is not related to the tenancy. The tenant testified that the noise complaints took place when she was in the hospital, and she did not give permission for her friends to be inside her home.

Analysis

The landlord, in their application, requested an Order of Possession on the grounds that the tenant and her guests have significantly and unreasonably interfered with and disturbed other occupants, and have seriously jeopardized the health and safety of others. The landlord also submits that the tenant has engaged in illegal activity that has affected the safety and well-being of others.

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 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 of the *Act*, 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.

The landlord confirmed in the hearing that the tenant has not been served with a 1 Month Notice for Cause. Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered. In this case, I find that the landlord's application falls short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

Although the landlord did provide undisputed evidence that the tenant and her guests have been engaged in behaviour that has significantly disturbed others, I am not satisfied that the behaviour of the tenant and her guests are serious enough in nature to justify the early end of this tenancy. Although the tenant admitted to being charged with a criminal offence, I do not find this incident related to this tenancy, nor am I satisfied that this incident has jeopardized the lawful interests or safety of any of the other occupants and tenants, nor the landlord. I accept the landlord's testimony that he has a duty to ensure the safety and lawful rights of the other occupants in the duplex, as well as the neighbours, but I do not find that the evidence submitted is sufficient to support how the behaviour of the tenant, or her guests, are so significant or serious in nature that it warrants the immediate termination of this tenancy. Although I sympathize with the landlord's concerns, the tenant testified that she is no longer engaged in the behaviour described, nor has she allowed her guests to return to the property. I am not

satisfied that the tenant or her guests currently pose an immediate or serious risk to others, the landlord, or the landlord's property.

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 to be unreasonable or unfair. For these reasons, I dismiss the landlord's application for an early end to this tenancy pursuant to section 56 of the *Act*.

Conclusion

I dismiss the landlord's application without leave to reapply. This tenancy is to continue 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 19, 2020

Residential Tenancy Branch