



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on January 13, 2021 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk; and
- a monetary order granting the recovery of the filing fee.

The Landlord's Agents I.S. and A.S., and the Tenant J.H. attended the hearing at the appointed date and time. The Landlord's Agents testified the Application and documentary evidence package was served to the Tenant by Registered Mail. The Tenant confirmed receipt. I find that above mentioned documents were sufficiently served to the Tenant in accordance with Sections 88 and 89 of the Act. The Tenant confirmed

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?
2. Is the Landlord entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on October 1, 2020. The Tenant is required to pay rent in the amount of \$1,800.00 to the Landlord on the first day of each month. The Tenant along with his roommates had paid rent in the

amount of \$900.00, however, the Landlord returned \$300.00 to a roommate that has since vacated the rental unit, therefore, the Landlord currently holds \$600.00 in deposits.

The Landlord's Agents stated that the Landlord is seeking to end the tenancy early based on the fact that the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord, seriously jeopardized the health and safety or lawful right of another occupant or the landlord, and put the Landlord's property at significant risk.

The Landlord's Agents stated that the Tenant is now the sole occupant of the three-bedroom rental unit as the other roommates have vacated the rental unit given they were concerned for their safety. The Landlord's Agents stated that the Tenant has installed a video surveillance system around the rental unit without permission. The Landlord's Agents stated that the rental unit has two broken windows, and that the locks have been changed. The Landlord's Agents stated that the Tenant has garbage stored outside as well as cigarette butts have been thrown on the side of the rental unit. The Landlord's Agents stated that the Tenant has verbally threatened other occupants at the rental property and makes loud noises in the late hours of the night. The Landlord's Agents stated that the Tenant also does laundry after hours.

The Landlord's Agents stated that they have served the Tenant with a One Month Notice to End Tenancy, however, given that other occupants are fearful of the Tenant, they are seeking to end the tenancy early based on immediate and sever risk. The Landlord provided pictures of the damage as well as witness statements in support. The Landlord's Agents stated that the Tenant has not paid rent and utilities as well.

The Tenant responded by stating that he was not responsible for the damage to the rental unit and that he has since fixed the damage with the supplies which were provided by the Landlord. The Tenant stated that many of the claims made by the Landlord are untrue and embellished. The Tenant stated that he is seeking to continue the tenancy.

Analysis

Based on the documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier that the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied...

- (a) The tenant or a person permitted on the residential property by the tenant had done any of the following:*
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;*
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;*
 - (iii) put the landlords property at significant risk;*
 - (iv) engaged in illegal activity that*
 - (A) has caused or is likely to cause damage to the landlord's property,*
 - (B) 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,*
or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;*
 - (v) caused extraordinary damage to the residential property,*
and
- (b) it would be unreasonable, or unfair to the landlord 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 causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the Tenant must be extreme and require immediate action.

In this case, the Landlord has applied for an order of possession to end the tenancy early based on immediate and severe risk. During the hearing, the Landlord's Agents stated that their concerns relate to security cameras being installed, broken windows, noise disturbances, verbal threats, garbage and cigarette butts, as well as unpaid rent and utilities.

Based on the testimony and evidence before me, I am not satisfied that the situation is so urgent that it should end earlier than a One Month Notice to End Tenancy for Cause would normally take effect. I find that the Landlord failed to provide sufficient evidence that this tenancy should end pursuant to Section 56 of the Act.

In light of the above, I dismiss the Landlord's Application, without leave to reapply.

As the Landlord was not successful with their Application, the Landlord is not entitled to recover the filing fee from the Tenant.

Conclusion

The Landlord has issued a one month notice to end tenancy for cause; however, they had insufficient evidence to prove it should end earlier under section 56. The tenancy will 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: February 09, 2021

Residential Tenancy Branch