



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on February 26, 2021 (the “Application”). The Landlord applied for an order ending the tenancy early pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

The Agent for the Landlord appeared at the hearing. Tenant J.V. appeared at the hearing and appeared for Tenant R.S. I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenants did not submit evidence. I addressed service of the hearing package and Landlord’s evidence.

Tenant J.V. confirmed receipt of the hearing package and Landlord’s evidence.

The Agent confirmed the hearing package and evidence were posted to the door of the rental unit March 05, 2021. The Landlord submitted a Proof of Service signed by a witness confirming service.

Based on the testimony of the Agent, Proof of Service and testimony of Tenant J.V., I am satisfied the Tenants were served with the hearing package and evidence in accordance with sections 88(g) and 89(2)(d) of the *Act* on March 05, 2021. Pursuant to section 90(c) of the *Act*, the Tenants are deemed to have received the package March 08, 2021. I also find the Landlord complied with rule 10.3 of the Rules of Procedure (the “Rules”) in relation to the timing of service.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered the documentary evidence and all oral testimony of the parties. I will only refer to the evidence I find relevant in this decision.

Issue to be Decided

1. Is the Landlord entitled to an order ending the tenancy early pursuant to section 56 of the Act?

Background and Evidence

A written tenancy agreement was submitted as evidence and the parties agreed it is accurate. The tenancy started October 19, 2015 and is a month-to-month tenancy.

The Agent testified as follows.

On June 9th, Tenant R.S. attacked a female staff member and accused her of having an intimate relationship with Tenant J.V. The incident was caught on camera. Tenant R.S. shoved the staff member into a wall and threatened her. The rules in relation to this tenancy include zero tolerance for violence. Tenant R.S. was issued a letter about this incident and told it could result in eviction.

On January 22nd, Tenant R.S. attacked another female resident while the resident was stepping off the elevator. Tenant R.S. accused the resident of having an intimate relationship with Tenant J.V. The resident had only been at the building for five days and was terrified to return after this incident. The resident has since returned to the building, but is in constant fear of Tenant R.S. More recently, Tenant R.S. went to the resident's door with a hammer. These incidents were caught on camera.

Tenant R.S. was caught on camera entering another resident's room and stealing their cell phone.

Tenant R.S. has obtained a spare set of keys to areas of the building where tenants do not usually have access and has stolen items from these areas.

Tenant R.S. assisted individuals with breaking into another resident's room. There was a domestic dispute between another female resident and male resident. The male resident wanted to return to the unit to obtain their belongings and were told they could not do so until the female resident was present. Tenant R.S. let the male resident and

others into the building and up to the floor of the unit. Tenant R.S. then attempted to cover the camera in the hall while the male resident and others broke into the unit and took the male resident's belongings.

Tenant R.S. poses a huge risk to staff, other residents and the property. Tenant R.S. is involved in violence and thefts in the building.

The Agent sought an Order of Possession effective one week after service on the Tenants.

The Landlord submitted the following evidence:

- A letter to Tenant R.S. as well as a Critical Incident Report about Tenant R.S. punching a female staff member in the face on April 29, 2020
- An email and photo about a home-made weapon being found in the possession of Tenant R.S. on March 02, 2021
- Letters dated January 05, 2018, April 09, 2020 and November 19, 2020 about Tenant R.S. committing thefts and having keys to areas of the building not usually accessible to tenants
- A letter dated January 19, 2021 to Tenant R.S. about assisting with a break and enter as well as photos of Tenant R.S. attempting to cover a hallway camera
- A letter dated January 22, 2021 to Tenant R.S., a Critical Incident Report and photos in relation to Tenant R.S. attacking another resident on January 21, 2021

Tenant J.V. testified as follows. They would like to stay in the rental unit. They have tried hard to make a home for themselves. They are not involved in the actions of Tenant R.S. They have not been involved in violence in the building. Having to move would complicate things and jeopardize their health. They have been with Tenant R.S. for 13 years and being separated will negatively impact Tenant R.S.'s health. Tenant R.S. does not think before she acts. They do not understand why their tenancy has to end due to Tenant R.S.'s actions.

Analysis

Section 56 of the *Act* allows an arbitrator to end a tenancy early when two conditions are met. First, the tenant, or a person allowed on the property by the tenant, must have done one of the following:

1. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. Put the landlord's property at significant risk;
4. Engaged in illegal activity that has (a) caused or is likely to cause damage to the landlord's property (b) 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) jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
5. Caused extraordinary damage to the residential property.

Second, it must be unreasonable or unfair to require the landlord to wait for a One Month Notice to End Tenancy for Cause pursuant to section 47 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules, the Landlord, as applicant, has the onus to prove the circumstances meet this two-part test.

Based on the testimony of the Agent as well as the documentary evidence referred to above, I am satisfied Tenant R.S. has done the following. Punched a staff member in the face on April 29, 2020. Stolen from other residents and the Landlord. Assisted individuals with gaining access to the building so that they could break into a unit. Assisted individuals with breaking into another unit by attempting to cover the hallway camera while the individuals broke into the unit. Attacked another resident on January 21, 2021.

Given the above, I am satisfied Tenant R.S. has done 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 interest of the landlord or another occupant
- Engaged in illegal activity that has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property

I am also satisfied it would be unreasonable and unfair to require the Landlord to wait for a One Month Notice to End Tenancy for Cause pursuant to section 47 of the *Act* to take effect given the circumstances involve violence as well as illegal activity that is negatively impacting other residents of the building. I find the circumstances serious and am satisfied Tenant R.S. poses a serious risk to staff members and other residents of the building.

I am satisfied the Landlord has met their onus to prove the tenancy should end pursuant to section 56 of the *Act*. I issue the Landlord an Order of Possession for the rental unit which will be effective one week after service on the Tenants.

I acknowledge the testimony and submissions of Tenant J.V. I also acknowledge that the incidents which I find serious enough to warrant ending this tenancy pursuant to section 56 of the *Act* involve Tenant R.S. and not Tenant J.V. However, the issue before me is whether this tenancy should end, and I am satisfied it should pursuant to section 56 of the *Act* for the reasons stated. The Tenants are co-tenants under the same tenancy agreement and therefore, the tenancy ends for both Tenants. As explained to the parties during the hearing, it is open to Tenant J.V. and the Landlord to enter into a new tenancy agreement if they wish.

Conclusion

The Landlord is issued an Order of Possession effective one week after service on the Tenants. This Order must be served on the Tenants and, if the Tenants do not comply with this Order, it may be filed and enforced in the Supreme Court as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: March 29, 2021

Residential Tenancy Branch