



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 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;
- authorization to recover their filing fee for this application from the tenant pursuant to section 72.

The landlords attended the hearing via conference call with the assistance of their Punjabi Interpreter, R.G. The tenant attended the hearing via conference call. Both parties provided affirmed testimony.

Both parties confirmed the landlords served the tenant with the notice of hearing package by posting it to the rental unit door on February 19, 2021. Extensive discussions confirmed that the landlords served the tenant with their submitted documentary evidence in the same Notice of Hearing Package on February 19, 2021. The tenant confirmed that no documentary evidence was submitted. I accept the undisputed affirmed evidence of both parties and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Are the landlords entitled to an early end to the tenancy and to obtain an order of possession?

Are the landlords entitled to recovery of the filing fee?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on February 15, 2020 on a month-to-month basis as per the submitted copy of the signed tenancy agreement dated February 15, 2020. The monthly rent is \$2,200.00 payable on the 1st day of each month. A security deposit of \$1,100.00 and a pet damage deposit of \$1,100.00 were paid on February 15, 2020.

The landlords seek an urgent application for an early end to the tenancy as the tenant poses an immediate and severe risk to the rental property. The landlords provided written details which states in part,

The risk of causing a fire is very high due to the fact that the tenants have kept car or truck batteries near the wooden walls of the house...They also have a big bonfire in a pit which caused a larger fire that the fire brigade had even come to check out the location.

Extensive discussions over 74 minutes revealed that the landlords believe that the tenant is storing vehicle batteries next to the wall of the house and that this poses an immediate threat to the house. The landlords also stated that the tenant had set a bonfire previously and that this could cause a fire on the property. The landlord also stated that there is always someone new at the house and the tenant has allowed sub-tenants. The landlords state that one of the guys is smoking outside and throws his cigarettes onto the ground. The landlords stated that they allowed the tenant to sublet the rental property, but that they do not know who she is renting to.

The tenant disputes the landlords' claims arguing that upon receiving this notice and finding out the landlords concerns with the storage of batteries, they were removed from the property immediately. The tenant stated that she is a certified safety officer and is familiar with safety regulations. The tenant stated that the photograph of a firepit submitted by the landlord was originally placed in the middle of the yard away from the rental property. The tenant stated that the landlords had moved the firepit to under the stairwell to take the photograph and that it has since been moved-back to the original position. The tenant also addressed the landlords' photographs of empty containers, a bbq and various other items stored on the property. The tenant stated that these items were in the process of being removed to the dump. The tenant confirmed that she sublets bedrooms in the property with the landlords' permission.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord's property;
 - 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
 - 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.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

In this case the landlords' submissions with the assistance of their interpreter were erratic and confusing. Extensive clarification was required in that the landlords confirmed that the tenant is putting the landlord's property at risk. The landlord confirmed the three issues listed above regarding storage of batteries, a firepit and allowing subtenants.

I find on the landlord's first issue regarding the storage of batterie that there is no imminent and severe threat caused by the tenant. The tenant provided undisputed evidence that upon being notified of their concerns, the tenant removed the batteries from the property.

On the landlord's second and third issues regarding a firepit and subletting, I find that the landlords have failed to provide sufficient evidence that the use of a firepit and subletting is posing an immediate and severe risk to the rental property. The landlords claims of the bonfire causing a concern to the fire department was unsupported and the tenant had claimed that the firepit was placed in close proximity to the house was unchallenged by the landlords. I find that the landlords' claim that subletting was a ground for an early end to the tenancy is without merit. On the above noted issues, the landlords' application for an early end to the tenancy is dismissed.

Conclusion

The landlords' application is dismissed without leave to reapply.

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: March 05, 2021

Residential Tenancy Branch