



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 the filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The landlord was assisted in representing themselves.

As both parties were present service was confirmed. The tenant testified that they received the landlord's materials and have not served any materials of their own. Based on the testimonies I find the tenant duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end of the tenancy and Order of Possession?
Is the landlord entitled to recover their filing fee from the tenant?

Background and Evidence

The parties agreed on the following facts. The rental unit is a suite in a detached home. The tenant has been residing in their suite prior to the property being purchased by the landlord. The landlord made written request to the former owners of the property to issue a 2 Month Notice to End Tenancy for Landlord's Use on the tenants. A 2 Month Notice dated October 29, 2020 with an effective date of December 31, 2020 was served on the tenant. The tenant did not dispute the 2 Month Notice. The tenant also signed a Mutual Agreement to End the Tenancy dated October 29, 2020 with an effective date of December 30, 2020.

Despite agreeing to end the tenancy the tenant remained in the rental unit. The landlord filed a separate application under the file number on the first page of this decision on January 26, 2021 seeking an Order of Possession on the basis of the undisputed Notice to End Tenancy. That hearing is scheduled to be heard on April 20, 2021.

The landlord filed the present application for an early end of the tenancy on February 8, 2021. The landlord now submits that there is urgency to end the tenancy and writes:

They are posing a threat of shooting. I have a small daughter that is scared and unable to sleep. They are taking a lot of drugs. I did police calls as well. We are scared to go out.

The landlord submits with their application a photograph of a garbage bag and some written submissions. The landlord complains of smells emanating from the tenant's suite, that interactions with the tenant have been antagonistic and that complaints have been made to the police.

While the tenant confirms that they have not disputed the 2 Month Notice, signed a Mutual Agreement to End the Tenancy and that the tenancy has not been reinstated, they dispute that they have engaged in the conduct alleged by the landlord.

Analysis

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 for a landlord's notice for cause.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, 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.

Based on the testimonies of the parties and the evidence submitted, I find insufficient evidence that the tenant has engaged in any conduct that would give rise to an early end of the tenancy. While I accept that the landlord has been inconvenienced due to the ongoing tenancy, I find insufficient evidence to show that there has been conduct on the part of the tenants that gives rise to a basis for an early end of the tenancy.

I find the complaints of the landlord to be vague, lacking in details, and not supported in documentary evidence. I find the submissions of the landlord that there have been threats and danger to be so hyperbolic as to lack believability. I find little evidence of illegal drug use or any criminal activities as alleged by the landlord. I find that calls to police and police file numbers to be of limited probative value as anyone is able to call and make complaints regardless of the underlying factual basis. I do not find sufficient evidence that any odors emanating from the rental unit are so extreme that it could be characterized as unreasonable.

I find that on a balance of probabilities the landlord has not established a basis for an early end of the tenancy and consequently dismiss the landlord's application in its entirety without leave to reapply.

Conclusion

The landlord's 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 8, 2021

Residential Tenancy Branch