



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction and Preliminary Matters

This hearing was set for 9:30 a.m. on this date, via teleconference call, to deal with a landlord's application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act.

At the start of the hearing, only the landlord appeared. The landlord testified that she served the tenants with her Application for Dispute Resolution but that the tenants had already moved out of the rental unit on February 26 and 27, 2021 and the tenants returned the keys to the rental unit to her. The landlord proceeded to tell me she wants to recover unpaid rent and damages from the tenants. I informed the landlord that this proceeding was not scheduled to deal with a monetary claim and that since the tenants already returned possession of the rental unit to her, she no longer needs an Order of Possession. The landlord agreed she no longer requires an Order of Possession.

At approximately 9:35 a.m. the tenants connected to the teleconference call. I informed the tenants that I had heard from the landlord that they had already moved out of the rental unit. The tenants denied that to be accurate and stated the landlord actually locked them out of the rental unit on February 27, 2021 and disposed all of their belongings except for a couch and mini freezer which were locked in the rental unit. The tenants indicated they wished to regain possession of the rental unit among other remedies related to the lock out and loss of their possessions. The tenants informed me that they have already filed a Tenant's Application for Dispute Resolution seeking remedy but it has not yet been served upon the landlord.

I informed the parties that I am tasked with resolving the application before me, which is the landlord's request for an early end of tenancy and Order of Possession on an emergency basis and I cannot resolve other matters for which the other party has not been put on notice are going to be dealt with at this proceeding. Despite this

information, the landlord repeatedly wanted to raise issues with respect to rent and damage and I had to mute her telephone line to stop her interruptions. The female tenant was also disruptive and wanted to raise issues with respect to their homelessness and loss of possessions and I had to mute her telephone line as well. The male tenant was able to control his conduct and his telephone line remained unmuted at all times. When I came time to hear from the landlord and the female tenant, I unmuted their lines.

I heard disputed oral testimony as to what transpired on February 26 and 27, 2021 from the parties and I make no finding as to whether the tenants moved out or were locked out on February 27, 2021. I find it is unnecessary to make such a determination for reasons provided below.

In the event the tenants did move out of the rental unit and return the keys to the landlord, I find the landlord's request for an Order of Possession is moot. However, in the event the tenants did not move out, I did consider whether the landlord would be entitled to an Order of Possession based on the Application for Dispute Resolution that was filed and I find she is not, as described below.

The tenants acknowledged receiving the Notice of Dispute Resolution Proceeding from the landlord, which includes the Application for Dispute Resolution. On the Application for Dispute Resolution the landlord wrote, as a basis for seeking the early end of tenancy:

"THE TENANT THREATENED US. THEY CAME UPSTAIRS AND KNOCKED OUR DOORS UPSTAIRS. THEY HAS SOMETHING IN THEIR HAND. WE CALLED THE POLICE. THE POLICE TOLD THESE PEOPLE HAVE BAD RECORD, EVERYWHERE THEY DONOT PAY RENT AND ASK MONEY TO VACATE THE BASEMNT. MOREOVER, THE FIRST CHEQUE THEY GAVE US OF (\$1250 AS RENT AND \$625 AS DAMAGE DEPOSIT) BOUNCE BACK."

The issue of unpaid rent and security deposit is not grounds for ending a tenancy early and obtaining an Order of Possession on an emergency basis and I informed the parties that I would not hear any concerning unpaid rent or security deposit.

The tenants responded to the landlord's allegations against them, as stated on the Application for Dispute Resolution as follows: they did not threaten the landlord and they are unaware as to what threat the landlord is referring to. The tenants are unaware as to what instance the landlord is referring to when she states they came upstairs with

something in their hand. The tenants acknowledged the police were called to the property several times but claim it was in response to the landlord's false allegations.

Under section 59 of the Act, an applicant is required to "include full particulars of the dispute that is to be the subject of the dispute resolution proceedings". This requirement is keeping with the principles of natural justice which entitle a respondent to be put on notice as to the claims being made against them, including the full particulars, so that they may prepare an adequate response. Where a claim has insufficient detail, it is prejudicial to the respondent. In this case, I find the landlord failed to provide any dates or specify the threat that was made by the tenant, if any. Nor, did the landlord describe the date or item that she saw in the tenant's hand, if any. Therefore, I find the landlord did not sufficiently set out the basis for her application for an early end of tenancy and I do not consider it further.

In light of all of the above, I do not give further consideration to the landlord's request for an Order of Possession. Nor, do I award the landlord recovery of the filing fee.

The parties remain at liberty to file and serve the other party with an Application for Dispute Resolution to deal with other matters not resolved by way of this Application for Dispute Resolution.

Conclusion

I do not provide the landlord with an Order of Possession with this decision as an Order of Possession is either no longer required and the request is moot and/or the landlord did not sufficiently set out the basis for obtaining an Order of Possession under section 56 of the Act in making her Application for Dispute Resolution.

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 11, 2021

Residential Tenancy Branch