



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

The landlord filed an Application for Dispute Resolution on March 25, 2021 seeking an order for early termination of the tenancy. This is an expedited hearing process, filed by the landlord on an emergency status, on the basis that the tenant poses an immediate and severe risk to the property, other occupants or the landlord. The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on April 27, 2021. In the conference call hearing I explained the process and provided the attending party the opportunity to ask questions.

The landlord attended the hearing; the tenant did not.

The landlord stated that they delivered notice of this hearing to the tenants by attaching a copy to the door of the rental unit on March 30. From what the landlord presents here on notifying the tenant of this hearing, in person, I am satisfied they served the tenant notice of this hearing as they present here. I accept the landlord’s statement that their service also included their prepared evidence.

Issue(s) to be Decided

- Is the landlord entitled to an order of possession that ends the tenancy for cause and without notice by section 56 of the *Act*?

Background and Evidence

I have reviewed the oral testimony and documentary evidence before me; however, in this section I describe only the evidence and submissions relevant to the issues and findings in this matter. That is, I consider only material that is relevant to the landlord's application for an early end of tenancy for cause. After taking an oath from the landlord at the start of the hearing, I gave them the opportunity to speak to the issue and present their evidence.

The landlord confirmed the details of the tenancy agreement they provided as evidence for this hearing. The start date was June 1, 2020. The tenants pay \$2,400 at the start of each month. Both the landlord and tenants signed the agreement on May 5, 2020.

The landlord presented the following points that they feel show the tenants pose a risk. These are letters from the strata including the following:

- March 23, 2021: the strata wrote to advise of 2 incidents of the theft of packages by a visitor who was admitted by the tenants
- March 23, 2021: the strata advises of a police raid at the rental unit
- April 21, 2021: tenants are using an extension cord from a common area into the rental unit because of no power in the unit – this is a tripping hazard and being wrapped in black tape poses a first hazard
- April 14, 2021: another package theft
- April 13, 2021: tenants allowing visitors to enter via a parking level stairwell –

Further to these pieces of evidence, the landlord presented that they had video that shows one tenant smoking at the window of the rental unit. There is video showing theft of packages. More recently, there was a visitor associated with the tenants who was not clothed in an appropriate manner. Beside this, more recently there were concerns raised about noise stemming from a party in the unit.

The landlord specified that certain pieces of what they present pose immediate risks to safety. These are the extension cord in the common area, a person exposing themselves causing shock, and personal property being stolen.

The tenant did not attend the hearing and did not submit documentary evidence for consideration.

Analysis

The *Act* s. 56 provides that a tenancy may end earlier than a normal prescribed period if one or more of the outlined conditions applies. These conditions reflect dire or urgent circumstances. The legislation regarding an order of possession reads as follows:

- 56(1) A landlord may make an application for dispute resolution to request an order
- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end tenancy were given under section 47 [*landlord's notice: cause*], and
 - (b) granting the landlord an order of possession in respect of the rental unit.

The following s. 56(2) sets out two criteria. First, the landlord must prove the cause for issuing the Notice. Second, the evidence must show it would be unreasonable or unfair to the landlord to wait for a set-period Notice to End Tenancy to take effect under a different s.47 of the *Act*. The determination of cause considers the following situations of immediate and severe risk:

- 56(2) . . .
- (a) The tenant or a person permitted on the residential property by the tenant has 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 landlord's 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 . . .

I have considered the evidence of the landlord concerning the conduct of the tenants.

The *Act* s. 56 is reserved for situations where tenants commits a serious breach. I find the tenants conduct described by the landlord is not on a level with what is set out in s. 56(2).

While the landlord presents that certain of the actions they have received strata warnings about constitute serious infractions, I am not satisfied this equates to the

tenants' actions seriously jeopardizing the health or safety of other individuals. Stolen items and inappropriate conduct do not represent a palpable hazard to health or safety.

It is unknown if the extension cord still poses a safety risk. Presumably the tenants are still running power by this means; however, it is at best speculative where the only concern is black tape holding the cord together, without any other palpable source of a risk of fire. In sum on this point, I find the fire hazard, though present, is low-risk. While the potential for more significant damage is present, as of the time of this hearing to decide on an end of tenancy, the issue is not *severe* in nature which is what s. 56 contemplates.

The reason for a police raid is unknown, and it is unknown whether it is related to other issues of concern presented to the landlord by the strata. Without tangible proof of illegal activity causing safety or damage risks, this is not a means whereby the landlord can end the tenancy in an expedited fashion.

In conclusion, I find the evidence presented here on the tenants' actions does not rise to a level that is sufficient to end the tenancy in this manner. This is based on the evidence presented by the landlord in this hearing.

I understand the issue presents difficult circumstances for the landlord and other individuals in the building. Given the section of the legislation the landlord has applied on to end the tenancy, an imminent danger with palpable effects is not proven in the evidence. The landlord has not shown that this means of ending the tenancy must happen over and above that of other sections applicable in the *Act*.

An expedited hearing process is for circumstances where there is an imminent danger to the health, safety, or security of a landlord or others, so significant that it would warrant the tenancy end sooner than had the landlord issued a One Month Notice to End Tenancy for Cause. I find that the evidence and oral testimony presented by the landlord does not show this to be the case.

I find the landlord has not proven there is a valid reason to justify an order that ends the tenancy early by application of s. 56. I am not satisfied that the matter at hand is one that is above what would normally be covered by a s. 47 one-month Notice to End Tenancy.

Conclusion

The landlord's application for an early end of tenancy and an order of possession for the rental unit is dismissed without leave to reapply.

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

Dated: April 28, 2021

Residential Tenancy Branch