



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bridgeman Construction Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes **FFL, ET**

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; and
- 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 corporate landlord was represented by their agents with SH primarily speaking (the "Landlord"). The tenant KW primarily spoke on behalf of the tenants (the "Tenant").

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The Tenant testified that they received the landlord's materials and had not served any materials of their own. Based on their testimonies I find the tenants 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 the filing fee from the tenants?

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 arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree that this periodic tenancy began in October 2019. The monthly rent is \$1,400.00 payable on the first of each month. A security deposit of \$700.00 was paid at the start of the tenancy and is held by the landlord. The rental unit is a basement suite in a detached home with other occupants residing in the main floor of the building.

The landlord submits that the conduct of the tenants has significantly interfered with and unreasonably disturbed the other occupant of the building as well as neighbors residing in adjacent houses. The landlord submitted into evidence signed statements from the upstairs occupant and neighbors complaining about the conduct of the tenants.

The nature of the complaints arise from the tenants' habitual drug use, hostile interactions with the upstairs occupants of the building, uttering threats and disparaging remarks, urinating in public and observations of trafficking in illegal substances.

The tenants disputed the landlord's evidence and gave lengthy testimony about their character, explanation about their conduct and complaints about the landlord and others.

The parties also raised issues which were not before me and had no relevance to the present application such as the tenants testifying that they have been late in paying their rent 4 times during the past year for various reasons or the landlord submitting that there is an arrear for this tenancy.

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 testimony of both parties and my review of the written evidence, I find that the landlord has not met their evidentiary burden to establish that it would be unreasonable or unfair to the landlord or other tenants to serve the tenants with a notice to end tenancy under section 47 of the *Act* and wait for that notice to take effect.

I find the written statements of the landlord's witnesses to demonstrate interference and disturbance on the part of the tenants. In general, I find the landlord's position to be more credible and believable than that of the tenants. The tenants' position is not supported in any documentary materials and I find that their submissions disputing all of the complaints and stating that they are fabrications to be so extreme as to have little credibility. I find the testimonies of the tenants and their family member to demonstrate

However, I find insufficient evidence that there is urgency to end this tenancy and that it would be unreasonable and unfair to wait for a notice to take effect. This tenancy began in October 2019 and the testimony of the Landlord is that there have been issues

with the tenants' conduct since that time. The written statements from the landlord's witnesses detail the issues with the tenants' conduct and I find the nature of the complaints to be minor and subjective. I do not find the attendance of police at the rental property to have significant weight as anyone may call for police regardless of the validity of the reason for a complaint. I further do not find the written statement from a neighbor suggesting that there is trafficking of illicit substances to be sufficient to conclude that there are illegal activities or that there is urgency for this tenancy to end.

While I am satisfied with the evidence of the landlord that the conduct of the tenants has caused disturbance and interference of others I am not satisfied on a balance of probabilities that this conduct makes it unreasonable, unfair or unjust to wait for the issuance of a notice to end tenancy to take effect. Consequently, I dismiss the present application of the landlord seeking an early end of the tenancy and Order of Possession.

As the landlord was not successful in their application I decline to issue an order allowing for recovery of the filing fees.

Conclusion

The landlord's application is dismissed in its entirety without leave to reapply. This tenancy continues until ended in accordance with the *Act*.

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: June 14, 2021

Residential Tenancy Branch