



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution, seeking an order to end the tenancy early and to receive an order of possession.

The landlord, an agent for the landlord, NJ (agent), a translator for the agent, HJ (translator) and a witness, GS (witness) attended the teleconference hearing. All but the witness, who did not testify, were affirmed. All were provided the opportunity to provide affirmed testimony and were provided the opportunity to present evidence submitted in accordance with the rules of procedure and makes submissions to me. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Proceeding dated May 21, 2021 (Notice of Hearing) was considered. The translator stated that the agent served KW personally at the rental unit on May 22, 2021 at 6:11 p.m. and that the other tenants had their package attached to the rental unit door at the same time and date. Without evidence to prove to the contrary, I accept the tenants were duly served with the Notice of Hearing and the landlord's evidence in accordance with the Act as claimed.

Preliminary and Procedural Matter

The agent and translator confirmed the email addresses of both parties. The decision will be emailed to both parties.

Issue to be Decided

- Is the landlord entitled to end the tenancy early and obtain an order of possession?

Background and Evidence

The landlord first testified that they were assaulted and then stated that it was an accidental push by AS. The landlord confirmed after several attempts to clarify the purpose of the application, that the tenants have not assaulted or threatened the landlord at any time during the tenancy.

The agent, translator and landlord all stated that rent has not been paid and were reminded that this hearing was not related to unpaid rent and was an application to end the tenancy early for health or safety reasons.

Analysis

Based on the documentary evidence and the testimony during the hearing and on a balance of probabilities, I find the following.

Section 56 of the Act indicates:

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 the 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.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession **only if satisfied, in the case of a landlord's application,**

(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, **and**

(b) it would be unreasonable, or unfair to the landlord 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.

[Emphasis added]

The burden of proof is on the landlord to prove that it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end tenancy under section 47 to take effect. The landlord did not provide evidence that a 1 Month Notice to End Tenancy for Cause (1 Month Notice) has been served on the tenants.

In the matter before me, the landlord confirmed that neither they or their agent were assaulted or threatened with assault. Furthermore, I find the landlord failed to provide sufficient evidence to end the tenancy early via section 56 of the Act. As a result of the above, I find that the landlord has failed to meet the burden of proof in proving that the tenancy should end early, and that it would be unreasonable and unfair to the landlord or the other occupants to wait for a notice to end tenancy under section 47 of the Act. The landlord may wish to serve a 1 Month Notice under the Act as a result or in relation to unpaid rent, a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities (10 Day Notice). Consequently, **I dismiss** the landlords' application due to insufficient evidence.

The filing fee is not granted as this application has been dismissed.

Conclusion

The landlord's application fails and is dismissed due to insufficient evidence. The tenancy shall continue until ended in accordance with the Act.

This decision will be emailed to the parties at the email addresses confirmed by the landlord during the hearing.

The landlord is at liberty to issue a 1 Month Notice and/or a 10 Day Notice.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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 10, 2021

Residential Tenancy Branch