



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CMHA KOOTENAYS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

On July 16, 2021, the Landlord submitted an Application for Dispute Resolution for an early end of tenancy and to recover the cost of the filing fee.

This matter was set for hearing by telephone conference call at 9:30 am on this date. The Landlord's agent ("the Landlord") attended the hearing; however, the Tenant did not. The line remained open while the phone system was monitored for 26 minutes and the Tenant did not call into the hearing during this time.

The Landlord testified that on July 30, 2021 the Tenant was served with the Notice of Dispute Resolution Proceeding by hand. The Landlord stated that the notice of hearing was handed to an adult male, who is regularly present in the unit, at the front door of the rental unit at 11:35 am.

I find that the Tenant was sufficiently served with notice of the hearing in accordance with section 71(2)(c) of the Act. The hearing proceeded.

The Landlord was provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Issues to be Decided

- Does the Landlord have cause/ reason to end the tenancy early?

Background and Evidence

The Landlord testified that the tenancy began on March 21, 2021 on a month-to-month basis. Subsidized rent in the amount of \$658.00 is to be paid to the Landlord by the first day of each month. The Tenant paid a \$400.00 security deposit to the Landlord.

The Landlord testified that there have been ongoing concerns with the Tenant, the Tenant's guest, who is regularly on the property, and the behaviour of the Tenant's children on the rental property.

The Landlord testified that they issued a One Month Notice to End Tenancy for Cause dated June 23, 2021 to the Tenant. The Landlord testified that she was present when the One Month notice was served on June 23, 2021 by putting it in the Tenant's mail slot. The Landlord provide a copy of the One Month Notice. The reasons for the Notice are as follows:

*Tenant has allowed an unreasonable number of occupants in the unit/ property.
Tenant or a person permitted on the property by the Tenant has:*

- Significantly interfered with or unreasonably disturbed another occupant or the Landlord*
- Put the Landlord's property at significant risk*

Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written Notice to do so

The effective date of the One Month Notice is July 31, 2021.

The Landlord testified that the Tenant did not dispute the One Month Notice and has not moved out of the rental unit.

The Landlord applied for an early end of tenancy because of ongoing behavior by the Tenant and her guest that occurred after the One Month Notice was issued.

The Landlord testified that the Tenant's children are stealing from other occupants and are running around the property unsupervised. The Landlord stated that the Tenant's children have been observed naked on the property and one child urinated and defecated outside on the common property. The Landlord stated that the Ministry of Children and Families are now involved.

The Landlord testified that the Tenant has a regular male guest who acts aggressively towards the Landlord and other occupants of the rental property. The Landlord stated that on June 23, 20121 the Tenant's guest approached her and got in her personal space and said I am going to get you fired.

The Landlord stated that the Tenants guest approached other occupants and was bad mouthing the Landlord and the occupants reported the issue because the Tenant's guest made the uncomfortable.

The Landlord stated that on June 28, 2021 there was a report that the Tenants guest was intoxicated and threatened another occupant of the property.

The Landlord provided audio recordings from phone calls she received from the Tenant. The Landlord stated that the Tenant is aggressive and rude by swearing at her.

The Landlord is seeking an early end to tenancy as other occupants are being disturbed and the Tenants behavior and that of her guest is affecting their right to quiet enjoyment.

Analysis

Residential Tenancy Branch Policy Guideline #51 Expedited Hearings provides the following information:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. The landlord must provide sufficient evidence to prove the tenant, or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).

Section 56 of the Act provides that a Landlord may make an application for dispute resolution to request an order to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 and granting the Landlord an order of possession in respect of the rental unit. If an order is made under this section, it is unnecessary for the Landlord to give the Tenant a notice to end the tenancy.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, in the case of a Landlord's application, the Tenant or a person permitted on the residential property by 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 interest 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,*
- *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*
- *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 or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect.*

Based on the evidence above, the testimony of the Landlord, and on a balance of probabilities, I find that the Tenant is responsible for actions and behaviors of her guest and her children.

I find that the Tenant is deemed to have received the One Month Notice on June 26, 2021 and did not dispute the Notice. The Tenant is conclusively presumed to have accepted that the tenancy ended on July 31, 2021. The Tenant did not move out of the rental unit. I find that the Tenant is responsible for ongoing poor behavior since the One Month Notice was issued.

I accept the Landlord's evidence that the Tenant's guest is aggressive with the Landlord and other occupants of the rental property. I also accept the Landlord's evidence that the Tenant is not supervising her children and they are taking other peoples possessions and acting inappropriately.

After considering the totality of the evidence before me, I find that the Tenant has affected or is likely to adversely affect the quiet enjoyment, security, safety, or physical well-being of another occupant of the residential property. I find that it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for enforcement of the notice to end the tenancy issued under section 47 to take effect. Therefore, I am ordering that the tenancy will end immediately.

I find that the Landlord is entitled to an order of possession for the rental unit, effective two (2) days after service on the Tenant pursuant to section 56 of the Act. This order may be filed in the Supreme Court and enforced as an order of that Court. The Tenant is cautioned that costs of such enforcement are recoverable from the Tenant.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order that the Landlord can retain \$100.00 from the Tenants security deposit in satisfaction of the application fee.

Conclusion

The Tenant 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 and I find that it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for enforcement of the notice to end the tenancy issued under section 47 to take effect.

The Landlord is granted an order of possession for the rental unit effective two (2) days after service on the Tenant.

The Landlord can retain \$100.00 from the Tenants security deposit in satisfaction of the application fee.

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: August 12, 2021

Residential Tenancy Branch