



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

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;
- authorization to recover her filing fee for this application from the tenant pursuant to section 72.

Both parties attended the hearing via conference call and provided affirmed testimony.

Both parties were advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed the landlord served the tenant with the notice of hearing package and the submitted documentary evidence in person on July 30, 2021. The tenant did not submit any documentary evidence. Neither party raised any service issues. I accept the undisputed affirmed evidence of both parties and find that the tenant was properly served with the notice of hearing package and the submitted documentary evidence in person on July 30, 2021.

Issue(s) to be Decided

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

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 / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The landlord seeks an urgent application about a tenant who poses an immediate and severe risk to the rental property, other occupants or the landlord. The landlord provided written details which states:

Selling my rental- The tenant has become extremely verbally abusive, intimidating, and threatening. I have attached an additional letter outlining more details of why I am applying through this method. The letter outlines the Fear the tenant has instilled in Myself, realtors, prospective purchasers. Tenant has lead me to fear the property will be unlivable when he leaves. Police have now been involved on 2 occasions. I also now have to hire a process servicer to deliver notices due to fear.

[reproduced as written]

The landlord clarified that the tenant has threatened to damage the landlord's property by:

- Taking out the foundation post in the basement
- stripping the shop and house to make it unsellable

The landlord also stated that she has already issued a 1 month notice which is being disputed by the tenant for the same reasons.

The landlord stated that the tenant threatened to remove a foundation post in the basement. The landlord referred to an email dated June 21, 2021 on page 15 of the 34 page document. The landlord referred to the sentence,

"The tenant also told us that the posts downstairs were installed by a friend of his and would likely remove them, as well as all the storage shelves within the shop."

[reproduced as written]

The tenant disputed this claim arguing that the posts were installed by the tenant at his own costs. The tenant argues that the landlord is making false accusations. The tenant stated that if he is evicted he will remove all the upgrades that he has put into the property at his own costs. The tenant repeatedly stated that he would not damage the property and that when the tenancy ends it would be the same as when he moved in.

The landlord also references a letter submitted by her spouse, W.S. dated June 14, 2021 which states in part,

He also stated that he would be stripping the shop and house to make it unsellable. Stating that "If you think it's bad now, I am just getting started with how this is going to be!

[reproduced as written]

The tenant disputes the landlord's claim and clarified that "stripping = taking my stuff out of it." The tenant repeatedly stated that he has no intention of damaging the property, but only in removing any repairs that he has made with the property while occupying the rental.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in 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.

In addition to showing at least one of the above-noted causes, the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a 1 Month Notice to take effect.

A one month notice to end tenancy for cause is the standard method of ending a tenancy for cause. An order to end tenancy early pursuant to section 56 requires that there be particular circumstances that lend urgency to the cause for ending the tenancy. That is the reason for the requirement that the landlord show it would be "unreasonable or unfair" to wait for a cause notice to take effect.

In this case, the landlord has confirmed in her direct testimony that a notice to end tenancy was served to the tenant for the same reasons. The landlord confirmed that a dispute resolution hearing has already been set. The landlord argues that the tenant has threatened to damage the property by removing basement foundation posts. The landlord relies upon an email dated June 21, 2021. In that email it states in part,

“The tenant also told us that the posts downstairs were installed by a friend of his and would likely remove them, as well as all the storage shelves within the shop.”

[reproduced as written]

The landlord also referenced a letter submitted by her spouse, W.S. dated June 14, 2021 which states in part,

He also stated that he would be stripping the shop and house to make it unsellable. Stating that “If you think it’s bad now, I am just getting started with how this is going to be!

[reproduced as written]

The tenant has disputed these claims arguing that the landlord is making false accusations. I find that after a review of both of these excerpts from the landlord’s evidence that it is not conclusive that the tenant has threatened to damage the property. By the tenant’s own admission, if he is evicted he will be removing all additions upgrades that he made at his own costs to maintain the property. On this basis, I find that the landlord has failed to provide sufficient evidence that the tenant has threatened to damage the property and is not entitled to an early end to the tenancy.

I note for the record that both parties were very passionate and argumentative in this dispute resolution hearing. Both parties were repeatedly cautioned to stay focused on the issues at hand.

Conclusion

The landlord’s application is dismissed without leave to reapply.

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 16, 2021