



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 Landlords' Application filed under the *Residential Tenancy Act* (the "Act") for an early end of tenancy pursuant to section 56 of the *Act* and to recover the cost of filing the application from the Tenant. The matter was set for a conference call.

Both Landlords attended the hearing and were each affirmed to be truthful in their testimony. As the Tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the Act and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlords testified the Application for Dispute Resolution and Notice of Hearing had been served to the Tenant by Canada Post registered mail, sent on July 30, 2021, a Canada Post tracking number was provided as evidence of service. I find that the Tenant had been duly served in accordance with sections 89 and 90 of the Act.

The Landlords were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues to be Decided

- Are the Landlords entitled to an early end of tenancy and an Order of Possession, under section 56 of the *Act*?
- Are the Landlords entitled to recover the filing fee for this application pursuant to section 72 of the *Act*?

Background and Evidence

While I have considered all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Landlords testified that during an inspection of the rental unit, on June 24, 2021, the Landlord and the Tenant got into an argument over the Tenant's use of a cable television box (the "cable box") and that when the Landlord attempted to remove the cable box, the Tenant physically prevented the Landlord from taking the cable box.

The Landlord testified that they and the Tenant got into a physical altercation over the Landlords' attempt to remove the cable box and that during this physical altercation, the Landlord was injured. The Landlord submitted a letter from their physician into documentary evidence.

The Landlord testified that the police were called to the rental property due to this event but that the Landlord and Tenant provided two different accounts of what had happened, that as the police could not see any injuries on the Landlord, the police refused to take any action.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an Early End to Tenancy and 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 of the *Act* for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, a landlord has the burden of proving that:

- There is sufficient cause to end the tenancy such as; unreasonably disturbed another occupant, seriously jeopardized the health, or safety, or a lawful right, or interest of the landlord, engaged in illegal activity, or put the landlord's property at significant risk; and
- That it would be unreasonable or unfair to the landlord or other occupants to wait for a one month notice to end tenancy for cause under section 47 of the *Act* to take effect.

After reviewing the Landlords' testimony and documentary evidence, I find that there is insufficient evidence before me to prove, to my satisfaction, the Landlords' account of the events of June 24, 2021. In the absence of sufficient evidence, I find that the Landlord has fallen short of the standard required to prove sufficient cause to end the tenancy under section 56 of the *Act*.

Therefore, I dismiss the Landlords' application for an early end of tenancy under section 56 of the *Act*, as I find there is insufficient evidence to prove the Landlords' claim.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Landlords have not been successful in their application, I find that the Landlords are not entitled to recover the \$100.00 filing fee paid for this hearing.

Conclusion

I dismiss the Landlords' application for an early end of tenancy and to recover their application fee. 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: August 9, 2021

Residential Tenancy Branch