



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

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:54 am in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 am. Two of the landlord's property managers ("**MD**" and "**MJJ**") attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that MD, MJJ, and I were the only ones who had called into this teleconference.

MD testified that the landlord served the tenant with the notice of dispute resolution form and supporting evidence package by posing it on the door of the rental unit on August 31, 2021. The landlord submitted a proof of service form confirming this. I find that the required documents were served in accordance with the Act.

Issues to be Decided

Is the landlord entitled to:

- 1) an order of possession; and
- 2) recover the filing fee;

Background and Evidence

While I have considered the documentary evidence and the testimony of the property managers, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the property managers' claims and my findings are set out below.

The parties entered into a written, fixed-term tenancy agreement starting June 18, 2021 and ending December 31, 2021. The rental unit is one-half of a duplex house. The landlord rents out the other half to a different tenant ("**GK**"). Monthly rent is \$850 and is payable on the first of each month. The tenant paid the landlord a security deposit of \$425, which the landlord continues to hold in trust for the tenant.

MD testified that shortly after moving into the rental unit, the tenant became very disruptive to GK and the occupants of the surrounding houses. The landlords submitted several complaint letters from the tenant's neighbors outlining the tenants disruptive behavior which included loud yelling and partying late at night and in the early hours of the morning, discarding garbage on the rental unit's front lawn, and regular fighting with individuals she invited into the rental unit. The RCMP attended the rental unit several times.

On August 12, 2021 the landlord received a notice from the municipality advising him that the condition of the residential property was in breach of the property maintenance bylaw, due to long weeds in the front yard and an accumulation of debris and refuse along the front and side of the rental unit. MD testified that landlord notified the tenant of this, and the tenant, temporarily, cleaned the debris and refuse. However, she testified that after the front and side of the rental unit were cleaned, the tenant again spread garbage and recycling on the lawn. The landlord submitted two letters from neighbours dated August 16, 2021 which reference recycling being dumped on the lawn the night prior.

MD also testified that the tenant, or individuals she is allowed into the rental unit, has kicked in the front door of the rental unit on three separate occasions. MD testified that the landlord repaired it the first time this happened (August 15, 2021), but at the request of the tenant, did not repair in the second or third time.

MD testified that the RCMP have attended the rental unit on numerous occasions to deal with the noise disturbances and fights. She testified that GK has repeatedly complained to her of these disturbances.

MJJ testified that on September 9, 2021 tenant got in a fight with people she had allowed into the rental unit over money got they apparently owed her (MJJ believes that tenant is charging people a fee to allow them to squat in a property which abuts the rental unit). She testified that the RCMP and fire department were called to attend the rental unit because one or more of these individuals doused the backyard of the rental unit in gasoline and was heard to threaten to "burn [the tenant] alive."

MJJ testified that the RCMP advised her not to attend the rental unit that evening due to the tenant acting erratically. She testified that she spoke with the fire department and they confirmed that gasoline was poured onto the back lawn, and at the fire department sprayed the backyard with water to dilute and remove enough of the gasoline so it was no longer an immediate threat to the tenant, for the neighbor's, safety.

MJJ testified that, on September 10, 2021 garbage and recycling was strewn all over GK's front lawn. She also testified that the tenant attended the property management office that day and then overdosed while she was there. MJJ testified that a Narcan shot had to be administered. The following day (September 11, 2021), the tenant attended the office again and demanded the return of September's rent because she needed the money. MJJ refused to refund the rent, and the tenant began yelling aggressively at the property management staff until she left.

Analysis

Section 56(2) of the Act states:

Application for order ending tenancy early

56(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.

I accept the undisputed testimony of the property managers in its entirety. Their testimony about the tenant's conduct is consistent with the letters written by the tenant's neighbours. Additionally, I accept their testimony relating to the incident at the rental unit on September 9, 2021, despite the lack of documentary evidence corroborating it. This incident occurred 8 days prior to the hearing, after the deadline for submitting documentary evidence. Additionally, it is unlikely that the landlord would have been able to obtain police records relating to the incident in time to submit at the hearing. The property managers' testimony was credible and internally consistent.

I find that individuals permitted onto the residential property by the tenant poured gasoline on the backyard lawn and threatened to burn the tenant lives. I find that this represents significant risk to the landlord's property, and seriously jeopardized the health and safety of GK.

I also find that the tenant, or individuals permitted onto the residential property by her, have repeatedly broke in the front door of the rental unit. This represents extraordinary damage to the residential property. Furthermore, I find the repeated loud parties, fights, and yelling matches involving the tenant represent an unreasonable disturbance of GK.

Additionally, by attending the property managers office on September 10, 2021 and yelling at the staff for a sustained period of time, the tenant unreasonably disturbed the property managers, who are agents of the landlord. For these reasons, I find that the tenant has acted in such a way so as to satisfy multiple criteria set out at section 56(2)(a) of the Act.

Due to the frequency and extreme nature of the tenant's conduct, I find that it would be unreasonable and unfair to both the landlord, his agents, and GK, to wait for a notice to end tenancy to be issued pursuant to section 47 of the Act. Accordingly, the landlord has satisfied the second requirement to obtain an early end to tenancy, as set out in section 56(2)(b) of the Act.

I grant the landlords application and issue an order of possession effective two days after the landlord serves a copy of this decision and attached order on the tenant in accordance with the Act.

Pursuant to section 72 of the Act, as the landlord has been successful in the application, he may recover their filing fee from the tenant. The landlord may retain \$100 security deposit in satisfaction of this amount.

Conclusion

Pursuant to sections 72 of the Act, the landlord may retain \$100 of the security deposit.

Pursuant to section 56 of the Act, I order that the tenant deliver vacant possession of the rental unit to the landlord within two days of being served with a copy of this decision and attached order at 1:00 pm.

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: September 17, 2021