



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 pursuant to the *Residential Tenancy Act* (the "**Act**") for an early end to this tenancy and an Order of Possession pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:47 am in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 am. The landlord NM attended the hearing and was accompanied by NA, a property manager for the property management company which employed her. Both were 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 the NM, NA, and I were the only ones who had called into this teleconference.

NM testified she served that the tenant with the notice of dispute resolution form and supporting evidence package by posting it on the door of the rental unit on September 23, 2021. She provided a witnessed Proof of Service form (#RTB-34) corroborating this. I find that the tenant was served with the required documents in accordance with the Act.

Preliminary Issue – Identity of Landlord

At the outset of the hearing, NM stated that she was the building manager for the residential property. She stated that PCPM (full name on cover of this decision) was the property management company that the tenant paid rent to. She agreed that PCPM, and not herself, was more properly named the landlord in this application.

As such, I order that NM be removed as landlord from this application and that PCPM be added.

Issues to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

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

The tenant and the prior owner of the residential property entered into a tenancy agreement starting November 1, 2021. Monthly rent is \$826 and is payable on the first of each month. The tenant paid the prior owner a security deposit of \$347.25. PCPM took over the lease as landlord on March 29, 2017. It holds the security deposit in trust for the tenant.

On June 8, 2021, the landlord served the tenant with a one month notice to end tenancy for cause. On August 27, 2021 the tenant's boyfriend came to NM's office and confronted her regarding the eviction. NM provided a written statement summarizing the incident, as follows:

On Friday at around 2:00 PM, [the tenant's boyfriend] came to my office. Started asking if I was OK in displacing [the tenant]. I explained it has nothing to do with me. It had gone to head office. He then asked me if I knew who he was, that I should research who I was F**king with and for my safety, I should know who I was displacing. He repeated himself twice both telling me for my safety, I should know who I was displacing. When asked what he meant by my witness [BA, a sub-contractor of the landlord] he asked if [BA] wanted to go outside.

I immediately ended the conversation, while [the tenant] removed [her boyfriend] from my office.

[The tenant's boyfriend] left in his vehicle and preceded to intentionally back into [BA's] vehicle causing damage and left the property.

The landlord submitted three video recordings into evidence which corroborated the NM's statement. The recording taken in NM's office includes audio, and the tenant's boyfriend can be heard make comments as indicated in the statement. A second recording shows him being guided from the office by the tenant and out of the building. The third video show the tenant's boyfriend (but not the tenant) getting into a truck, slowly backing up through the parking lot, locating BA's truck, lining the back of his truck up with the front of BA's trucks, and reversing into BA's truck at a moderate speed. He then drives away.

NM testified that since this incident the tenant has not been cooperative with her. She testified that the tenant, on multiple occasions, has screamed at her. On one occasion, the tenant screamed at NM in the lobby of the residential property and NM walked away. The tenant followed her into a different building and continued to yell and scream at NM.

NM testified that the tenant's boyfriend has spent a lot of time at the residential property since 2106. NA testified that, at one point, the landlord attempted to have him made a tenant on the tenancy agreement, but the tenant refused.

NA testified that she is scared for the safety of her staff and herself, following the August 27, 2021 incident and the tenants continued verbally abusive conduct.

Analysis

Section 56 of the Act sets out the criteria that must be met for a landlord's early end to tenancy application:

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.

Rule of Procedure 6.6 states:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application.

As such, the landlord must prove it is more likely than not that the tenant's conduct meets the criteria set out at section 56(2) of the .

Policy Guideline 51 considers application for early ends to tenancy. It states:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.

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). Without sufficient evidence the arbitrator will dismiss the application. Evidence that could support an application to end a tenancy early includes photographs, witness statements, audio or video recordings, information from the police including testimony, and written communications

Based on the evidence presented at the hearing, I am satisfied that the actions of the tenant's boyfriend on August 27, 2021 met the standard set out at section 56(2)(a) of the Act.

The tenant's boyfriend is an individual who was permitted onto the residential property by the tenant. I find that his comments about researching him for NM and BA's "safety" constitute threats which constituted an unreasonably disturbance. Based on the subsequent conduct of the tenant's boyfriend, I do not find that this threat was idle. He rammed BA's truck with his own. Such an action would reasonably inspire fear in both NM and BA of their safety. Additionally, I find that such an action amounts to an illegal activity which damaged the landlord's property (BA being a sub-contractor of the landlord).

Accordingly, I find that the landlord has satisfied the section 56(2)(a) requirements.

I also find that it would be unfair to the landlord's staff to make the landlord wait to end the tenancy by a one month notice to end tenancy. The nature of the tenant's boyfriend's actions inspire fear in the landlord's staff. Such a state should not be prolonged. The tenant's abusive conduct towards NM following the incident also favours ending the tenancy pursuant to section 56, rather than by section 47 of the Act. It is unfair for NM to have to endure such treatment.

As such, I find that the landlord has satisfied the section 56(2)(b) requirements.

I issue an order of possession effective two days after the landlord serves it on the tenant.

Conclusion

I grant the landlord's application for an early end to the tenancy.

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(s) by the landlord 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: October 21, 2021

Residential Tenancy Branch