



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.

The landlord and his agent attended the hearing via conference call and provided undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence.

The landlord was 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.

The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence by posting it to the rental unit door on October 4, 2021. I accept the undisputed affirmed evidence of the landlord and find on a balance of probabilities that the tenant was properly served as per sections 88 and 89 of the Act. Despite not attending the hearing, the tenant is deemed served as per section 90 of the Act.

Issue(s) to be Decided

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

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 in part,

Tenant continues to massively disturb all other building tenants. People who are ordered by police to not be in building are being allowed in, along with visitors at night hours. Concern about drug use by tenant and/or visitors. Police here many times. Unit is damaged, and am concerned about vermin.

[reproduced as written]

The landlord stated that the tenant has damaged the rental unit and threatened other tenants in the building.

Extensive discussions over 74 minutes by the landlord and his agent failed to provide sufficient details of how the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord. The landlord repeatedly stated that there are numerous noise complaints by other tenants against the named tenant. The landlord repeatedly stated that there were threats, but no details provided. The landlord confirmed in his direct testimony that a 1 month notice dated July 27, 2021 was served to the tenant, but that no action has been taken by the landlord regarding that notice. The landlord stated that the other tenants of the building are concerned over the repeated visits by the police. The landlord repeatedly provided the details for their reason for cause from the 1 month notice. The landlord was cautioned on more than one occasion to focus of the landlord's application for an early end to the tenancy and not the 1 month notice.

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, I find that the landlord has failed to provide sufficient evidence that the tenant poses an immediate and severe risk to the rental property, other occupants or the landlord. The landlord repeatedly provided details of ongoing noise complaints by other tenants against this named tenant, but has failed to provide sufficient details of an immediate and severe risk by this tenant.

Conclusion

The landlord's application is dismissed.

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 25, 2021

Residential Tenancy Branch