



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 from the tenants pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant WBMS spoke on behalf of all named respondents (the "tenant").

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Is the landlord entitled to an early end of this tenancy and Order of Possession?
Is the landlord entitled to recover the filing fee from the tenants?

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 arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. This periodic tenancy began in July, 2017. The current monthly rent is \$2,800.00. The rental unit is a single detached home.

The landlord submits that upon conducting an inspection they have discovered a cannabis grow operation in the basement of the rental property. The landlord submits:

it is clear that the basement has been completely gutted with extensive flood damage mold electrical the house needs complete remediation, due to a cannabis grow operation. Tenants have extensive damage to drywall studs and ceiling's, modified plumbing and the electrical. Bathrooms they have removed tubs sinks toilets. The threats are fire, mold, floods, possible structural damage. damage to the septic system and field. Yard full of debris

The landlord submitted some photographs of the rental unit in support of their application. The landlord testified that they have been told by third parties that the condition of the rental unit may place their mortgage and insurance at risk. The landlord submits that the condition of the rental unit poses a risk of fire, water damage and structural damage.

The tenants dispute that they have caused any damage to the rental unit and submit that the grow operation was in place when their tenancy began. The tenants submit that there is no greater risk of fire, water damage or structural damage caused by their continuing occupation of the rental unit or maintenance of the grow operation.

Analysis

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

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other

occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interests of the landlord or another occupant.
- put the landlord's property at significant risk;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;
- engaged in illegal activity that 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;
- engaged in illegal activity that 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, **and**

it would be unreasonable, or unfair to the landlord, the tenant 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.

Based on the evidence of the landlord, I am not satisfied that the conduct of the tenants give rise to a basis for an early end of this tenancy. The tenants dispute that they were the ones who made alterations to the rental property and installed the grow operation. Even if I were to accept that the tenants were the ones who installed the grow operation I find insufficient evidence that the rental property is placed at significant risk based on the evidence of the landlord. I find that the photographs and hearsay evidence of the landlord that they have been informed by third parties that the condition of the property requires intervention to be insufficient to demonstrate risk beyond what would normally be expected in a similar living situation.

I find little evidence that the activities of the tenants have caused jeopardy to the rights or interests of the landlord and as they are the sole occupants of the residential property find little evidence of adverse effect on other occupants or neighbors.

In any event, even if I were to find that there was cause for this tenancy to end, I find little urgency to the current circumstances where it would be unfair or unreasonable for the landlord to wait for a notice to end tenancy under section 47 to take effect.

I find that the landlord has not met their evidentiary burden and consequently dismiss their application. This tenancy continues until ended in accordance with the Act.

Conclusion

The landlord's application is dismissed in its entirety 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: October 25, 2021

Residential Tenancy Branch