



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, pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:51 a.m. in order to enable the tenant to call into this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing with their daughter who acted as a translator, and was given a full opportunity to be heard, to present sworn 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. During the hearing, I also confirmed that the landlord, landlord's daughter, and I were the only ones who had called into this teleconference.

The landlord was clearly informed of Rule 6.11 which prohibits the recording of a dispute resolution hearing. The landlord confirmed that they understood.

At the outset of the hearing, the landlord confirmed that they were not certain of the current tenant's legal name, and that they wished to keep the tenant's name as originally submitted and reflected in the style of cause.

The landlord testified that the tenant was served with the landlord's application for dispute resolution package and evidence on September 17, 2021 by way of posting the package on the tenant's door. In accordance with sections 88, 89, and 90 of the *Act*, I find the tenant deemed served with the landlord's Application and evidence on September 20, 2021, 3 days after posting. The tenant did not submit any written evidence for this hearing.

Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?

Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony provided in the hearing, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below

The landlord testified that this month-to-month tenancy began approximately two years ago with the tenant's mother as the named tenant. The landlord testified that monthly rent was set at \$1,850.00, payable on the first of the month. The tenant provided a security deposit in the amount of \$925.00, which the landlord still holds.

The landlord testified that the mother had moved out some time ago, and the daughter, whom the landlord named in the application, currently resides in the rental unit. The landlord testified that the rent has not been paid since July 2021, and the landlord has received numerous complaints by neighbours that the property has become unsightly and full of garbage. The landlord submitted a copy of the a letter dated August 2, 2021 from By-Law enforcement about the untidy or unsightly premises after the property was inspected by the bylaw department.

The landlord testified that when they had attempted to address these issues, the tenant responded by threatening to burn the house down, and filing false complaints about the landlord. The landlord testified that the tenant has refused to communicate with the landlord, and has responded in a threatening manner. The landlord confirmed that they have served the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent, and that they wish to sell the house, but is worried about the ability to do so.

Analysis

The landlord, in their application, requested an Order of Possession on the grounds that the tenant has acted in a threatening manner towards the landlord, as well as other issues that have arisen out of this tenancy such as the unsightliness of the property as well as refusal to pay rent and deal with the landlord.

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 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 of the *Act*, I need to be satisfied that the tenants 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.

The reasons cited in the landlord's application would need to be supported by sworn testimony and/or written, photographic or video evidence in order to qualify for the first part of section 55 of the *Act*. The landlord provided sworn testimony, as well as submitted in evidence documents to show that the landlord has received complaints about the unsightliness of the property.

The landlord confirmed that at least one 10 Day Notice to End Tenancy for Unpaid Rent has been served. The landlord, in their application, is attempting to obtain an early end

to tenancy as they feel that the tenant has engaged in behaviour that has caused the landlord and neighbouring tenants concern.

Separate from whether there exist reasons that would enable a landlord to obtain an Order of Possession for Cause, the second part of section 56 of the *Act* as outlined above would only allow me to issue an early end to tenancy if I were satisfied that it would be unreasonable or unfair to the landlord to wait until an application to end the tenancy for cause were considered. In this case, I find that the landlord's application falls well short of the requirements outlined in section 56 of the *Act*. An early end to tenancy is to be used only in situations where there is a compelling reason to address the dispute very quickly and when circumstances indicate that the standard process for obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause would be unreasonable or unfair.

Although the landlord testified that the tenant or other occupants have been served with a 10 Day Notice to End Tenancy, and despite the landlord's concerns about the tenant's behaviour, the landlord has not issued the tenant any 1 Month Notices to End Tenancy for Cause. The landlord's failure to pursue an Order of Possession pursuant to a 1 Month Notice does not automatically qualify them to apply under section 56 of the *Act*. Although the landlord has provided supporting evidence to demonstrate that there are ongoing issues with this tenancy including issues with bylaw infractions and refusal to pay the rent, I am not satisfied that the landlord had provided sufficient and compelling evidence to support why the standard process of obtaining an Order of Possession following the issuance of a 1 Month Notice for Cause to be unreasonable or unfair. Although I am sympathetic that the landlord raised concerns about the threatening manner that the tenant has responded with, I find the evidence does not support that this matter that the property or the landlord is at immediate risk. For these reasons, I dismiss the landlord's application for an early end to this tenancy.

As the landlord was not successful with their application, the landlord's application to recover the filing fee is dismissed without leave to reapply.

Conclusion

I dismiss the landlord's application without leave to reapply. 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: October 13, 2021