



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

On September 16, 2021, the Landlord submitted an Application for Dispute Resolution under Section 56 of the *Residential Tenancy Act* (the “Act”) requesting that the tenancy end early and for an Order of Possession for the rental unit. The matter was set for an expedited participatory hearing via conference call.

The Landlord attended the conference call hearing; however, the Tenant did not attend at any time during the 29-minute hearing. The Landlord testified that the Notice of Dispute Resolution Proceeding and related evidence was delivered to the Tenant’s mailbox on September 25, 2021. The Landlord submitted pictures and a Proof of Service to support his testimony and as such, I find that the Tenant is deemed to have received the Notice of Expedited Hearing - Dispute Resolution Proceeding on September 28, 2021, in accordance with Sections 89 and 90 of the Act.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Tenant did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Landlord.

Issue to be Decided

Should the Landlord be granted an early termination of the tenancy and receive an Order of Possession, in accordance with section 56 of the Act?

Should the Landlord be compensated for the cost of the filing fee, in accordance with section 72 of the Act?

Background and Evidence

The Landlord submitted a copy of the Tenancy Agreement and provided testimony that the month-to-month tenancy began on January 01, 2020, that the monthly rent was \$2,250.00, and that he collected a security deposit of \$1,100.00.

The Landlord testified that the Tenant, in July 2021, sent him a text message where the Tenant threatened harm to the next-door neighbour (separate residential property). The Landlord also submitted a letter, dated September 20, 2021, where the neighbour writes about a dispute with the Tenant regarding a fence, a by-law infraction, and the threat in July 2021.

The Landlord stated that the Tenant is making a mess of the property, is breeding dogs without his permission, that there are too many people living in the rental unit, and that the Tenant is not paying rent.

As a result, the Landlord is requesting an early end of tenancy and an Order of Possession.

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 to request an Order of Possession on a date that is earlier than the tenancy would end if a Notice to End Tenancy were given under section 47 of the Act. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the Tenant, or a person permitted on the residential property by 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.

The causes for ending the tenancy early, as listed above, are identical to the causes for which a landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the landlord has the grounds to end the tenancy for cause is that when a landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the landlord must also prove that it would be unreasonable or unfair to the landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the tenant must be extreme and require immediate action.

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 arbitrator must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property to wait for a Notice to End Tenancy for Cause to take effect (at least one month).

Based on the testimony and evidence before me, I accept that the Landlord may have grounds to end this tenancy for cause. I do note, however, that the Landlord's main issue refers to an incident related to a neighbour of the residential property versus occupants of the residential property, or the Landlord, pursuant to section 56(2) of the Act.

Although prompted during the hearing, the Landlord did not speak to why it would be unreasonable or unfair to the Landlord or other occupants to wait for a One Month Notice to End Tenancy for Cause to take effect.

Based on the submissions from the Landlord, I find that the Landlord failed to provide sufficient evidence that there are any breaches that are so extreme that 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 to take effect. As a result, I dismiss the Landlord's Application to end the tenancy early.

Conclusion

I dismiss the Landlord's Application for Dispute Resolution without leave to reapply.

I authorize this tenancy to continue 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 25, 2021