



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on November 05, 2021 (the "Application"). The Landlord applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the "Act"). The Landlord also sought reimbursement for the filing fee.

The Landlord appeared at the hearing. The Tenant did not appear at the hearing. I explained the hearing process to the Landlord. I told the Landlord they were not allowed to record the hearing pursuant to the Rules of Procedure (the "Rules"). The Landlord provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlord's evidence.

The Landlord testified that the hearing package and evidence were posted to the door of the rental unit November 11, 2021. The Landlord submitted a video of them posting the hearing package and evidence to the door November 11, 2021. The Landlord submitted a photo of the hearing package and evidence posted to the door. The Landlord submitted a video of the Tenant taking the hearing package and evidence off the door November 13, 2021.

Based on the undisputed testimony of the Landlord, videos and photo, I accept that the Tenant was served with the hearing package and evidence November 11, 2021 in accordance with sections 88(g) and 89(2)(d) of the *Act*. Based on the video, I accept that the Tenant received the hearing package and evidence November 13, 2021. I find the Landlord complied with rule 10.3 of the Rules in relation to the timing of service.

As I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. The Landlord was given an opportunity to present relevant evidence and make relevant submissions. I have considered all documentary evidence and oral testimony of the Landlord. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an order ending the tenancy early pursuant to section 56 of the *Act*?
2. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

The Landlord submitted the written tenancy agreement between the parties which started June 01, 2021 and is a month-to-month tenancy.

The Landlord outlined the following issues with the Tenant.

On August 20, 2021, the Landlord and Tenant discussed the Tenant leaving their mattress outside for the garbage people to pick up. This issue started the Tenant's anger towards the Landlord and their wife.

At one point, the Tenant changed the locks to the rental unit and would not provide the Landlord with a key. The Tenant eventually provided the Landlord with a key. The Tenant then came knocking at the Landlord's door at midnight stating they lost their key and needed the Landlord's copy. The Landlord gave the Tenant the key. The Tenant never gave the key back. The Tenant then again knocked on the Landlord's door asking for the spare key at which point the Landlord had to explain to the Tenant that they never gave it back and the Landlord did not have it. The parties had an argument about the key and the Tenant threatened the Landlord's wife and made a fighting gesture towards the Landlord and their wife. The Tenant then broke the lock on the rental unit door to get in.

The Tenant uses an aggressive tone when talking to the Landlord.

The Tenant has failed to pay their hydro bill and their electricity has been cut off. The Landlord is worried that the Tenant will use fire to heat the rental unit which would pose a risk of a larger fire.

The Tenant damaged the Landlord's security system lights.

The Tenant tried to break into the Landlord's garage but was unsuccessful because the key broke in the lock.

The Tenant placed a dead rat on the windshield of the Landlord's wife's vehicle on September 07, 2021. A photo of this is in evidence.

The Tenant placed an "air bomb" package on the windshield of the Landlord's wife's vehicle. An "air bomb" is an explosive used around Halloween and causes a huge explosion and noise. An "air bomb" is dangerous and scared the Landlord's wife. Since this incident, the Landlord has had to go out and make sure the area around their wife's vehicle is secure before their wife leaves for work in the morning. The Landlord is afraid that a similar incident will occur again.

The Tenant used the dead rat and "air bomb" to scare the Landlord and their wife and these incidents could be taken as a threat. The Landlord found the incidents disturbing and the Landlord and their wife have not been able to enjoy their property as they had before. The Tenant's behaviour is unpredictable.

The Landlord sought an Order of Possession effective two days after service on the Tenant.

The Landlord submitted a photo of the "air bomb" as well as a video of the Tenant placing it on the Landlord's wife's vehicle. The Landlord submitted a photo of the dead rat.

Analysis

Section 56 of the *Act* allows an arbitrator to end a tenancy early when two conditions are met. First, the tenant, or a person allowed on the property by the tenant, must have done one of the following:

1. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
2. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. Put the landlord's property at significant risk;
4. Engaged in illegal activity that has (a) caused or is likely to cause damage to the landlord's property (b) 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) jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
5. Caused extraordinary damage to the residential property.

Second, it must be unreasonable or unfair to require the landlord to wait for a One Month Notice to End Tenancy for Cause under section 47 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules, the Landlord, as applicant, has the onus to prove the circumstances meet the above two-part test. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

Section 56 of the *Act* is reserved for the most serious of circumstances. Most of the issues raised by the Landlord are not sufficiently serious to warrant ending the tenancy pursuant to section 56 of the *Act*. However, I do find that the Tenant threatening the Landlord's wife, making fighting gestures towards the Landlord and their wife as well as using an aggressive tone with the Landlord serious. I also find the Tenant placing a dead rat and an "air bomb" on the Landlord's wife's vehicle serious. I accept that the outlined incidents occurred based on the undisputed testimony of the Landlord and the documentary evidence referred to above. I accept that these incidents together amount to a significant interference with, or unreasonable disturbance of, the Landlord and their

wife. I am also satisfied that the incidents are serious enough, when taken together, that it would be unreasonable or unfair to require the Landlord to wait for a One Month Notice to End Tenancy for Cause issued pursuant to section 47 of the *Act* to take effect. I find this given the pattern of threatening behaviour by the Tenant. I also note that the Tenant did not attend the hearing to dispute that the tenancy should end pursuant to section 56 of the *Act* and therefore the Landlord's position on this is undisputed.

I am satisfied the Landlord has met the onus to prove the tenancy should end pursuant to section 56 of the *Act*. I issue the Landlord an Order of Possession for the rental unit effective two days after service on the Tenant.

Given the Landlord was successful, I award the Landlord reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act* and issue the Landlord a Monetary Order in this amount.

Conclusion

The Landlord is issued an Order of Possession effective two days after service on the Tenant. This Order must be served on the Tenant and, if the Tenant does not comply with this Order, it may be filed and enforced in the Supreme Court as an order of that Court.

The Landlord is entitled to reimbursement for the \$100.00 filing fee. The Landlord is issued a Monetary Order in this amount. This Order must be served on the Tenant and, if the Tenant does not comply with the Order, it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: November 25, 2021

Residential Tenancy Branch