



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "**Act**") for an early end to the tenancy and an order of possession pursuant to section 56.

The tenant did not attend this hearing, although I left the teleconference hearing connection open until 9:45 am in order to enable the tenant to call into the hearing scheduled to start at 9:30 am. The landlord's property manager ("**BL**") and her husband ("**KL**") attended the hearing and was given a full opportunity to be heard, to present affirmed 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 Dispute Resolution Proceeding. I used the teleconference system to confirm that BL, KL, and I were the only ones who had called into the hearing.

BL testified she served that the tenant personally with the notice of dispute resolution package and supporting documentary evidence on February 24, 2022. The landlord submitted a signed Proof of Service form corroborating this, which KL witnessed. BL testified that after the tenant was personally served, she threw the documents onto the ground and stated that BL could post them to her door. BL did not do this, but testified start someone else placed the documents on top of the tenants mailbox.

All that is required to serve someone personally is to provide them with the documents. The recipient does not need to retain the documents in order for service to be effective.

The notice of dispute resolution proceeding form was issued by the Residential Tenancy Branch (the "**RTB**") on February 23, 2021. I find that the tenant was served with these documents on February 24, 2022, in accordance with Rule of Procedure 10 and with sections 88 and 89 of the Act.

Issues to be Decided

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

Background and Evidence

While I have considered the documentary evidence and the testimony of BL, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the landlord's claims and my findings are set out below.

The parties entered into a written, fixed term tenancy agreement starting January 1, 2022 and ending December 31, 2022. The rental unit is an apartment in a multi-level apartment building. Monthly rent is \$1,250 and is payable on the first of each month. The tenant paid the landlord a security deposit of \$625, which the landlord continues to hold in trust for the tenant.

BL testified that almost immediately after the tenant moved into the rental unit she began inviting guests onto the residential property who were disruptive, used drugs (including crack cocaine and heroin) in common areas of the residential property and damaged the residential property.

She testified the tenant permitted one guest to sleep in the residential property's laundry room, and that she ran an extension cord from the rental unit to the laundry room and gave this individual her Wi-Fi password. She testified that one of the other occupants of the residential property had a confrontation with this individual.

BL testified that the onsite manager ("DG") received a complaint from another occupant that an individual was in the stairwell using drugs. She submitted a letter from DG into evidence which stated that he investigated this complaint and confirmed that an individual was in the stairwell and that he had a crack pipe, a cigarette, and a naloxone kit in his lap. He wrote that the individual told him that he was there visiting the tenant.

BL testified that, on one occasion, a guest of the tenant entered attempted to enter the rental unit via the exterior window, but inadvertently entered the tenant's neighbor's unit. She testified that this individual entered into a young child's bedroom while the child was asleep, which severely traumatizing child. The mother has had to sleep with the child every night since this incident.

BL testified that on another occasion three individuals attempted to gain entry to the residential property by picking the lock of the front door. When DG attempted to escort them off the property, one of them took "a swing" at him. One of these individuals then preceded to throw a rock through the rental unit's exterior window. BL speculated that the tenant may have owed them money.

BL testified that the tenant is rude and confrontational whenever these concerns are brought up to her by the landlord's agents, and that the tenant has refused to pay any rent or utilities since the tenancy started. She testified that DG no longer brings his grandchildren around the rental unit for fear of their safety, and that several other occupants of the residential property have advised her that they will move out if return was permitted to remain, out of fear for their safety.

In support of its application, the landlord submitted written statements from two tenants of the residential property as well as DG. These statements corroborate BL's testimony

Analysis

Section 56 of the Act sets out the criteria that must be met for a landlord's early end to tenancy application:

Application for order ending tenancy early

56(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;

(ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;

(iii) put the landlord's property at significant risk;

(iv) engaged in illegal activity that

(A) has caused or is likely to cause damage to the landlord's property,

(B) 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

(C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

(v) caused extraordinary damage to the residential property, and

(b) it would be unreasonable, or unfair to the landlord 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.

Rule of Procedure 6.6 states:

6.6 The standard of proof and onus of proof

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

The onus to prove their case is on the person making the claim. In most circumstances this is the person making the application.

As such, the landlord must prove it is more likely than not that the tenant's conduct meets the criteria set out at section 56(2) of the Act.

Based on the testimony of BL and the written statements of DG and the other occupants, I am satisfied that the landlord has met these criteria. I find that by permitting an individual to sleep in the laundry room and another to loiter in the stairwell with drug paraphernalia, and that both of these individuals had confrontations with other occupants of the rental unit, the tenant has permitted someone on the property who has unreasonably disturbed another occupant of the residential property. Similarly, I accept that the individual who entered into the tenant's neighbor's unit was permitted onto the property by the tenant, and unreasonably disturbed the occupants of that unit.

I note that I do not find the fact that a group of individuals who attempt to pick the lock of the front door of the residential property and who threw a rock through the window of the rental unit, were individuals who were permitted onto the residential property by the tenant. It is unlikely that, if they were, they would have attempted to pick the lock or break the window.

For the foregoing reasons, I am satisfied that the landlord has satisfied the factors set out at section 56(2)(a) of the Act.

In light of the nature of these disturbances, the comments the landlord has received from the other occupants of the residential property, and the fact that the tenant has not paid any rent since moving in, I find that it would be unfair to both the landlord and the other occupants to wait to end the tenancy pursuant to section 47.

As such, I grant the landlord's application to end the tenancy early. I order that the tenant provide the landlord with vacant possession of the rental unit within two days of being served with a copy of this decision and the attached order by the landlord.

Conclusion

Pursuant to section 56 of the Act, I order that the tenant deliver vacant possession of the rental unit to the landlord within two days of being served with a copy of this decision and attached order(s) by the landlord.

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: March 10, 2022

Residential Tenancy Branch