



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PRYDE APARTMENTS LTD.
and [tenant name suppresses to protect privacy]

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 the issuance of an Order of Possession pursuant to section 56; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

Only the landlord appeared at the hearing. The landlord provided affirmed testimony and was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

Section 9(3) of the *Residential Tenancy Act* (RTA) and *Manufactured Home Park Tenancy Act* (MHPTA) permit the director of the Residential Tenancy Branch to establish rules of procedure for the conduct of dispute resolution proceedings. Under Rule 10 of the rules of procedure, the director may set an application for dispute resolution down for an expedited hearing meaning it will be heard on short notice to the respondent.

Section 71(2)(a) and (c) of the RTA and section 64(2)(a) and (c) of the MHPTA allow the director to order that documents must be served in a manner the director considers necessary, despite the methods of service provided for in sections 88 and 89 of the RTA and sections 81 and 82 of the MHPTA, and that a document not served in accordance with those sections is sufficiently given or served for purposes of the Act.

THE DIRECTOR ORDERS that:

Pursuant to sections 71(2)(a) and (c) of the RTA and sections 64(2)(a) and (c) of the MHPTA, and subject to any further order made pursuant to those sections:

1. A party to an application for dispute resolution set down under Rule 10 of the rules of procedure for a hearing date that is between six and 11 days after the date the application is made must serve their materials
 - a. by leaving a copy with the person,
 - b. if the person is a landlord, by leaving a copy with an agent of the landlord, or
 - c. if the person is a tenant, by leaving a copy at the tenant's residence with an adult who apparently resides with the tenant.

2. A party to an application for dispute resolution set down under Rule 10 of the rules of procedure for a hearing date that is between **12 and 16 days** after the date the application is made **must serve their materials**
 - a. by any method set out in paragraph 1 of this order,**
 - b. by attaching a copy to a door or other conspicuous place at the address at which the person resides, or
 - c. if the person is a landlord, by attaching a copy to a door or other conspicuous place at the address at which the person carries on business as a landlord.

The landlord filed their application on March 24, 2022. The agent gave sworn testimony that he attached his Notice of Hearing Package, Application and evidence to the tenant's door in the presence of a witness on April 5, 2022. I find that the landlord has served the tenant in accordance with the provisions noted above and the hearing proceeded and completed in the absence of the tenant.

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 the recovery of the filing fee for this application?

Background and Evidence

The landlord's agent gave the following testimony. This tenancy began on February 1, 2018 with the current monthly rent of \$906.39 due on the first of each month. The tenant paid a security deposit of \$425.00 which the landlord still holds. SA testified that on March 20, 2022 the tenant was involved in a violent brawl with another individual. SA testified that five police cars, two firetrucks and two paramedic vehicles attended. SA testified that there was blood strewn all around the property. SA testified that many of the tenants are fearful for their safety and wellbeing, so much so, they were too scared to participate in this hearing. SA testified that since that night, there are numerous

unknown and unauthorized people coming and going to the unit at all hours of the night. SA testified that there have been two other incidents that involve an unknown male and female going into the unit and acting aggressively. SA testified that there has been ongoing drug activity since the night of the assault and that the tenant refuses to communicate with him. The landlord testified that other tenants are also afraid of the tenant and have threatened to move out because of that fear. The landlord gave the following reason as noted on their application:

“Tenant (Jeremiah Benjamin Gannett) involved in violent drug and alcohol related incident. Police, fire and ambulance all attended (RCMP File No.: 2022-9929). Blood from injuries throughout common areas and grounds of the building. Blood in amounts such that serious health risk to other tenants. Tenant and two unauthorized occupants are still in the unit. Other tenants are very frightened for their own physical safety. There is also damage to property. Inside condition of rental unit unknown..”

The landlord stated that this is an urgent application about a tenant who poses an immediate and severe risk to the rental property, other occupants or the landlord and wants 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 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. 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.*

The landlord has provided undisputed testimony and extensive documentation to satisfy me that the tenant has:

- *“significantly interfered with or unreasonably disturbed another occupant or the landlord of 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.*

Based on the above, I find that the landlord is entitled to have this tenancy end early and grant them an order of possession. The tenancy is terminated. The landlord is entitled to retain \$100.00 from the security deposit for the recovery of the filing fee for this application.

Conclusion

The landlord is granted on order of possession. The tenancy is terminated.

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: April 19, 2022

Residential Tenancy Branch