



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PHS COMMUNITY SERVICES
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on April 21, 2022 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk.

The Landlord's Agents attended the hearing at the appointed date and time. No one attended the hearing for the Tenant. At the start of the hearing, the Landlord's Agent stated that they served the Tenant with the Notice of Expedited Hearing and documentary evidence package by posting it to the Tenant's door on April 28, 2022. The Landlord provided a signed witnessed proof of service in support. Pursuant to Section 89 and 90 of the Act, I find the above-mentioned documents are deemed to have been served to the Tenant three days later, on May 1, 2022. The Tenant did not provide any evidence in response to the Landlord's Application.

Issue(s) to be Decided

1. Is the Landlord entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?

Background and Evidence

The Landlord's Agent testified to the following; the tenancy began on August 8, 2016. The Tenant is required to pay rent in the amount of \$375.00 which is due to be paid on the first day of each month. The Tenant paid a security deposit in the amount of \$187.50. The Tenant continues to occupy the rental unit.

The Landlord's Agent stated that they meant to apply for an Order of Possession based on a One Month Notice to End Tenancy which has an effective date of March 31, 2022. The Landlord did not intend to apply for an early end to tenancy, although, the incidents that have occurred are concerning and demonstrate significant risk.

The Landlord's Agent stated that the Tenant has permitted a guest on the rental property who has engaged in threatening incidents towards other tenants and non-residents. The Landlord's Agent stated that on February 23, 2022 the Tenant's guest became involved in an arguments with another non-resident where there were threats of harm made with a knife. Furthermore, the Tenant's guest had previously been involved in a similar incident on August 28, 2021 in the laundry room and the rental property, where once again, threats with a knife were made towards another individual.

The Landlord's Agent referred to CCTV footage, which had not been submitted in evidence, along with Police file numbers. The Landlord's Agent stated that no charges were pressed in either incident. The Landlord's Agent stated that the Tenant's guest continues to attend the rental property which causes fear amongst other occupants.

Analysis

Based on the uncontested documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy on a date that is earlier that the tenancy would end if notice to end the tenancy were given under section 47 of the *Act*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

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...

(a) The tenant or a person permitted on the residential property by the tenant had 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 landlords 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.

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.

In this case, the Landlord has applied for an order of possession to end the tenancy early based on immediate and severe risk. I accept that the Landlord was under the impression that they had submitted an application seeking an order of possession based on the One Month Notice. I accept that two incidents have taken place between the Tenant's guest and others at the rental property. I find that the Landlord provided insufficient evidence to demonstrate that the incident poses immediate and severe risk currently. This can be confirmed by the fact that the Landlord waited two months after the latest incident to seek an early end to the tenancy.

Based on the testimony and evidence before me, I am not satisfied that the situation is so urgent that it should end earlier than a One Month Notice to End Tenancy for Cause would normally take effect. I find that the Landlord failed to provide sufficient evidence

that this tenancy should end pursuant to Section 56 of the Act. In light of the above, I dismiss the Landlord's Application, without leave to reapply.

The Landlord is at liberty to reapply for an Order of Possession based on the One Month Notice they have served.

Conclusion

The Landlord has issued a one month notice to end tenancy for cause; however, they had insufficient evidence to prove it should end earlier under section 56. The tenancy will 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: June 14, 2022

Residential Tenancy Branch