



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession, and to recover the filing fee from the Tenant.

All parties appeared for the hearing and provided affirmed testimony. The Tenant acknowledged receiving the Landlord's Notice of Dispute Resolution Proceeding and evidence package. No issues were raised with respect to service of the documents. The Tenant did not submit any documentary evidence.

All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make oral submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

Both parties provided a substantial amount of conflicting testimony during the hearing. However, in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to

determine the issues identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

Both parties agree that the tenancy started around September 1, 2020. The Tenant rents a suite in the lower portion of the Landlord's house.

The Landlord stated that around a year ago, there was a small fire in the rental unit, on the Tenant's stove, and since that time, he has removed the smoke alarm from the rental unit, which poses a risk to the property. The Landlord also stated that the Tenant has been smoking marijuana both inside and outside the rental property, which he is not supposed to do. The Tenant stated that he disconnected the smoke alarm because the alarm would intermittently go off while he was using the bath. The Tenant admits to smoking some cannabis, but denies smoking anything else, such as hard drugs.

The Landlord also stated that more recently (sometime in July 2022) the Tenant invited another occupant, and her two cats (without permission), to stay in the rental unit for a period of time. The Landlord stated that there has been an increase in yelling and banging and the Landlord also suspects the Tenant is smoking crack. The Landlord pointed to an audio recording generally, but did not specify specifically what part of the 10 minute recording was pertinent to this claim. The Tenant denies smoking crack, but suggested that his female friend may use drugs sometimes.

The Landlord stated that once they noticed the Tenant had another occupant staying over, they provided the Tenant with written notice that she had to move out, on or around July 17, 2022. The Tenant stated that his friend does not live there, and she was only there for a short period of time.

The Landlord stated that they have heard loud yelling and banging in the rental unit on July 15, 20, and 24, 2022. The Landlord stated that they called the police, and eventually, on July 25, 2022, the police came and arrested the Tenant's female guest, because she had 3 warrants out for her arrest. The Landlord stated that the Tenant has been drinking a lot, and when they confronted him about the noise in mid-July, he proceeded to yell at the Landlord, and threaten to fight. The Tenant denies threatening anyone.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is

unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; and, 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 to take effect.

Although the Tenant admits to not paying rent, I note this issue is not before me today.

Regarding the Landlord's application to end the tenancy early, I have carefully considered the evidence and testimony of both parties. It is clear that the relationship between the Tenant and the Landlord has degraded significantly in the recent months. I note the Landlord has stated the Tenant threatened to fight, when confronted about the noise he was making in July 2022. However, I note the Tenant denied this. I find the Landlord has not sufficiently demonstrated the Tenant threatened him in any way. I also note the Landlord is concerned about the increase in yelling, and banging sounds, particularly in the recent months. However, I am not satisfied that this issue is such that it warrants an early end to the tenancy due to an immediate and severe risk to the rental property.

Further, there is insufficient evidence to show that the Tenant's female guest is still occupying the premises, and that her potential ongoing presence is a severe threat to person or property. Overall, I am not satisfied that any of the reasons presented by the Landlord are severe enough such that it is unreasonable or unfair to wait for a notice to end tenancy to take effect.

Although it is clear that some dysfunction is occurring, I find the Landlord's disputed evidence and testimony is insufficient to substantiate that there is cause to end the tenancy in an expedited manner. As a result, I am unable to end this tenancy early.

Given the Landlord was not successful in this hearing, I decline to award the recovery of the cost of the filing fee paid to make this application.

Conclusion

The Landlord has not met the burden to prove the tenancy should end early. Therefore, the Landlord's Application is dismissed without leave to re-apply and the tenancy will continue until such time it is 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: August 24, 2022

Residential Tenancy Branch