



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was scheduled to deal with a landlord's application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act.

The landlords appeared at the hearing and were affirmed. There was no appearance on part of the tenant.

Since the tenant did not appear, I explored service of the hearing materials upon the tenant. The landlords testified that the Notice of Dispute Resolution Proceeding, evidence and other required documents were given to the tenant in person, on August 31, 2022, at the rental unit. The landlords provided a Proof of Service form that was signed by the tenant acknowledging receipt of the hearing materials. I was satisfied the tenant was duly served and I continued to hear from the landlords without the tenant present.

Issue(s) to be Decided

Have the landlords established that the tenancy should end early and be provided an Order of Possession under section 56 of the Act?

Background and Evidence

A co-tenancy with the tenant and her former spouse began on September 15, 2020. The tenant's spouse moved out and starting October 15, 2021 the tenant remained in the unit as the sole tenant. The landlords are holding a security deposit of \$950.00 and the monthly rent is \$1900.00 payable on the first day of every month.

The rental unit was described as a townhouse unit in a strata complex.

The landlords seek to end the tenancy early due to numerous issues. The landlords testified that there have been several complaints concerning garbage and mess accumulated in the townhouse's yard and in the common area; garbage thrown from the townhouse onto common property that had to be cleaned up and billed to the landlords; the common area grass dug up for makeshift steps; other people living in the rental unit with dogs and in their car; people coming and going at all times of the day and night including people knocking on neighbour's doors looking for drugs; and, several police visits to the rental unit. The landlords suspect drug use and/or drug dealing is taking place by the tenant or the people the tenant has permitted in the rental unit.

The landlords received an email from the strata property management company advising the landlords of the issues and indicating the strata will take legal action against the landlords if they do not take action to resolve the issue. More recently, the landlords received a letter from the City indicating the rental unit has been declared a "nuisance property".

As evidence, the landlords provided pictures of garbage accumulation in the townhouse yard and on common property, along with several emails from the strata property management company.

The emails from the strata management company describe the following as stemming from occupants of the rental unit:

- Complaints of fighting, arguing and loud noises
- Garbage thrown from the townhouse onto common property
- The tenant's daughter walking around the property with bags of white powder;
- Complaints from other occupants of the complex describing people asking for directions to the unit selling drugs;
- Other occupants of the complex not feeling safe;
- Sprinklers turned on and water flooding another unit;
- The strong smell of cannabis coming from the rental unit and guests leaving the rental unit with bags of cannabis.

Also provided was an email from the strata property management company indicating the activities of the tenant, or persons permitted on the property by the tenant, will result in legal action commencing against the landlords.

The landlord stated that she also feels unsafe going to the rental unit given the occupants residing at the rental unit. Further, the male landlord was in the rental unit upgrading the electrical outlets and observed numerous extension cords running all over the place which he described as a fire hazard.

The landlords requested an Order of Possession effective as soon as possible now that they are aware of the issues and the risk of legal action being taken against them by the strata counsel and the City. The landlords also noted that they have already suffered from unpaid rent for August 2022 and September 2022 and anticipate further losses before the unit may be re-rented. The landlords stated the tenant had been late paying rent in the past and they worked with the tenant so unpaid rent for August 2022 was not the motive behind making this Application for Dispute Resolution.

Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord had issued a One Month Notice to End Tenancy for Cause ("1 Month Notice") and grant the landlord an Order of Possession. The landlord must demonstrate cause for ending the tenancy and that it would be unreasonable to wait for a 1 Month Notice to take effect.

Below I have reproduced section 56 of the Act:

- 56** (1) A landlord may make an application for dispute resolution to request an order
- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
 - (b) granting the landlord an order of possession in respect of the rental unit.
- (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.

[My emphasis underlined]

Section 47 of the Act provides a mechanism for landlords to bring a tenancy to an end where the tenant has given the landlord cause to end the tenancy. Section 56 also requires that the tenant has given the landlord cause to end the tenancy; however, the seriousness of the alleged offence(s) or conduct permits the landlord to have the tenancy ended much sooner than a notice given under section 47. Accordingly, section 56 is intended to apply in the urgent and severe circumstances and are processed as on a priority basis.

In the matter before me, I have been provided unopposed evidence from the landlords that the tenant, or persons the tenant has permitted on the property, that I find is consistent with unreasonably disturbing other occupants of the complex and the imminent risk of legal action against the landlords has put the landlord's lawful right in serious jeopardy. Given the seriousness and imminence of this disturbing conduct and risk to the landlords, I am satisfied that it would be unreasonable to wait for a One Month Notice to take effect. Therefore, I grant the landlords' application and I order the tenancy shall end two days after service of the Order of Possession upon the tenant.

Provided to the landlords with this decision is an Order of Possession effective two (2) days after service upon the tenant.

Since the landlords were successful in their Application for Dispute Resolution, I award the landlords recovery of the \$100.00 filing fee they paid for this Application for Dispute Resolution from the tenant. The landlords are authorized to deduct \$100.00 from the tenant's security deposit to satisfy this award.

Conclusion

The landlords' application for an order to end the tenancy and obtain an Order of Possession under section 56 of the Act is granted.

I order the tenancy ended two (2) days after service of the Order of Possession upon the tenant. With this decision, the landlords are provided an Order of Possession effective two (2) days after service upon the tenant.

The landlords are authorized to deduct \$100.00 from the tenant's security deposit to recover the filing fee paid by the landlords for this Application for Dispute Resolution.

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: September 15, 2022

Residential Tenancy Branch