



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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.

At the outset of the hearing, I explained to the parties that as these hearings were teleconferences, the parties could not see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so.

All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation. All parties acknowledged the evidence submitted and were given an opportunity to be heard, to present sworn testimony, and to make submissions. I explained the hearing and settlement processes to both parties. Both parties had an opportunity to ask questions. Both parties confirmed that they were ready to proceed with the hearing, they did not want to settle this application, and they wanted me to make a decision regarding this application. Neither party made any adjournment or accommodation requests. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

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 recover the filing fee for this application from the tenant?

Background and Evidence

This tenancy began on August 1, 2018. RPN testified that he was seeking an early end to this tenancy. The landlord's application included the following description of the reasons for ending this tenancy early. (reproduced as submitted)

THE TENANT ARE FIGHTING AND SCREAMING MAJORITY OF THE TIME WITH HER HUSBAND AND SON. POLICE HAS CAME ON MY PROPERTY MANY TIMES DUE TO THEIR FIGHTING AMONGST THEMSELVES. I HAVE ATTACHED A CARD THAT I RECEIVED RECENTLY. THIS IS ONE OF MANY TIMES. MANY ISSUES HAVE BEEN CAUSED AND STRANGERS HAVE KNOCKED ON MY DOOR LATE AT NIGHT AND EARLY IN THE MORNING. THE WINDOW ON MY LANEWAY HOUSE WAS BROKEN BY SOMEONE IN WHICH WAS TARGETING THE TENANT. TENANT POSES AS A THREAT FOR MY FAMILY AND NEIGHBOURS.

RPN testified that the police have been to the property over 100 times in the past six months due the tenants disturbing them and their neighbors and having numerous strangers coming and going to their suite. RPN testified that the tenant's son disturbs their every day. RPN testified that he is "fed up" and wants the tenancy to end.

RP testified that she's afraid to go to the back of the property as she's unsure who may be there. RP testified that they want the tenancy to end because its "better to be safe than sorry".

JF testified that her son is dealing with a mental illness, and she is taking steps to get him into a recovery facility. JF testified that the landlord is exaggerating the number of times the police have attended. JF testified that the police may have attended five times in the past six months.

AB testified that if the police had attended 100 times in six months the problem would have been resolved long ago. AB testified that when the police attend, he and JF are often asleep and doesn't involve them.

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.

RPN alleges that the police have attended over 100 times in the past six months, however, he has only submitted one police business card. RPN has not provided police case numbers to corroborate the number of times the police have attended or a log of times, dates, officers etc. In addition, the landlord has not provided a clear and detailed account of the alleged "fighting" that he says is regular and consistent. For those reasons I find that the landlord has not provided sufficient evidence to show that this tenancy end early and he be granted an order of possession through this application. He further failed to illustrate how it would be unreasonable or unfair for the landlord to wait for a notice to end tenancy under section 47 to take effect.

Conclusion

I dismiss the landlord's application in its entirety.

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