



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;
- 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. The parties were given an **opportunity to be heard**, to present sworn testimony, and to make submissions. The landlord submitted documentary evidence for this hearing, the tenant did not. 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. 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.

Preliminary Issue - #1 - Tenants request to an adjournment

The tenant requested an adjournment due to the anxiety she was feeling for this hearing and that she was attending her son's funeral this afternoon. The tenant testified that she was served notice of this hearing at the beginning of September and that her son passed away on September 9, 2022. The tenant testified that she has a doctors note that would verify her anxiety in relation to this hearing. The landlord was opposed to the adjournment and advised that she would kill herself if this matter was adjourned and that the tenant was lying about having a son. It was explained to the tenant that I would require some documentation to consider the adjournment which she understood but was unable to provide. Based on the lack of any corroborating evidence before me, I denied the tenant's request for an adjournment. The tenant indicated she understood.

Preliminary Issue #2 – Offering the landlord accommodation

The landlord was screaming and yelling hysterically for several minutes at the outset of the hearing. The landlord's mental health counselor participated in the teleconference and was assisting the landlord. Although the landlord was opposed to the adjournment, I offered a short adjournment to her to ensure she was able to proceed and present her application to the best of her abilities so that she could do that without yelling and screaming. The counselor and SO, both advised that any delay would be detrimental to the landlords mental health and that they were content to proceed and assist her, which they did. The hearing proceeded and completed on this date.

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 from the tenant?

Background and Evidence

This tenancy began on May 1, 2022 with the current monthly rent of \$1300.00 due on the first of each month. The landlord testified that the tenant forced a tenancy on her and that it was part of her plan to fool the Mormon Church to pay for her rent and to push a tenancy onto her. The landlord testified that the tenant is hideous, con artist, and will "honeydrip you to death". The landlord testified that the tenant is a narcissist. The

landlord testified that “I will end my life if I have to live with her and if she doesn’t move out right away”.

The landlord testified that she and the tenant are not an emotional fit. The landlord testified that she has had many issues in her life such as; she has PTSD, her daughter was killed, she was homeless for five years, had a child when she was 13 in Colorado, was raped and had her home destroyed. The landlord testified that if the tenant doesn’t leave, “I’ll jump off of the fucking bridge and I will end my life”. The landlord testified that the tenant is of “high high intelligence” and this has been part of her plan all along. The landlord testified that she is afraid of the tenant and doesn’t want to have any contact with her. The landlord wants the tenancy to end and an order of possession.

The tenant gave the following testimony. The tenant testified that she disputes all the claims made by the landlord. The tenant testified that her outburst during this hearing was an example of what she has been dealing with. The tenant testified that she too, suffers from mental health issues and that the landlord has exacerbated those issues. The tenant testified that she is actively looking to move out but hasn’t found anything and won’t be pushed out by the landlord due to false allegations. The tenant testified that the landlords’ condition is the reason for the conflict between them and that it would take place no matter who the tenant is as the landlord is unstable and not well. The tenant wishes to remain.

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.

It is apparent from the testimony of the parties that there are issues between them. The tenant has provided disputing testimony to the landlords' allegations. Section 56 of the Act uses language, which is strongly written, and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly, the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant or put the landlord's property at significant risk and that it's **unfair** to the landlord or other occupants to wait for a Notice to End Tenancy. When given the opportunity to present her case, the landlord offered testimony that was not related to the issue before me and more so the issues she was personally dealing with. Its evident that the parties are not getting along, however, the landlord has not provided sufficient evidence to justify an end to this tenancy.

In this case, I am not satisfied that the landlord has met the second part of the test by showing that it would be unreasonable or unfair for a one month Notice to End Tenancy to take effect. Although there may be cause, to end this tenancy pursuant to Section 47 of the Act; I do not find it is unfair or unreasonable for the landlord to wait for a one month Notice to End Tenancy to take effect.

Conclusion

The landlord's application is dismissed in its entirety, the tenancy continues.

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 29, 2022

Residential Tenancy Branch