



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding oldings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the landlord applied on August 24, 2022 for:

- an order to end a tenancy early, pursuant to section 56 of the Act; and
- the filing fee.

The hearing teleconference commenced promptly at 9:30 a.m. and was attended by only the landlord, who was given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; he was also made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The landlord testified he served the Notice of Dispute Resolution Proceeding (NDRP) and his evidence on the tenant by registered mail on September 9, 2022, and provided a tracking number in support, as noted on the cover page of this decision. I find the tenant was served in accordance with Rule of Procedure 10.3 and the [Standing Order](#), and deem the materials received by the tenant on September 14, 2022, pursuant to section 90 of the Act.

Issues to be Decided

- 1) Is the landlord entitled to an early end of tenancy and an order of possession?
- 2) Is the landlord entitled to the filing fee?

Background and Evidence

The landlord provided the following particulars regarding the tenancy. It began on June 1, 2016; rent is \$532.00, due on the first of the month; and the tenant paid a security deposit of \$262.50, which the landlord still holds.

The landlord testified that on August 23, 2022 the tenant came out of his unit, holding a knife and yelling, then still brandishing the knife, chased a tenant into the elevator and took a swipe at him. A video of the incident is submitted as evidence.

The landlord testified that a staff member and a tenant were named as protected parties by orders of the court, which forbid the tenant from contacting them or attending the property, except on one occasion, in the company of a peace officer. A copy of the documents sent to the staff member are submitted as evidence.

The landlord testified that the tenant's behaviours had escalated, and that they had been about to approach him regarding excessive noise, as he had been yelling all the time.

Analysis

Section 56 of the Act establishes the grounds whereby a landlord may make an application for dispute resolution to request (1) an early end to tenancy, and (2) 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 of the Act for a landlord's notice for cause.

When seeking to end a tenancy early and obtain an order of possession under section 56, a landlord has the burden of proving, for example, that a tenant has:

- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- 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; **and**
- it would be unreasonable or unfair to the landlord or other occupants to wait for a One Month Notice to End Tenancy for Cause under section 47 of the Act to take effect.

Based on the affirmed undisputed testimony and documentary evidence presented by the landlord that the tenant brandished a knife on the property, threatening another tenant, I find that in accordance with section 56 of the Act, the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, and 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. And, I find it would be unreasonable or unfair to the landlord or the other occupants to wait for a One Month Notice to End Tenancy for Cause under section 47 of the Act to take effect.

Therefore, I find the landlord is entitled to an early end of tenancy and an order of possession.

Section 72 of the Act gives me the authority to order the repayment of a fee for an application for dispute resolution. As the landlord is successful in their application, I order the tenant to pay the \$100.00 filing fee the landlord paid to apply for dispute resolution.

In accordance with section 72, I allow the landlord to retain \$100.00 of the tenant's security deposit in satisfaction.

Conclusion

The landlord's application is granted.

The landlord is granted an order of possession.

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: October 03, 2022

Residential Tenancy Branch