



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes ET FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for an early end to the tenancy pursuant to section 56;
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The hearing was conducted by conference call. The tenant did not attend this hearing, although I waited until 9:50 a.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord testified that on August 26, 2022, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the tenant by registered mail. A registered mail tracking number (RN 67161859CA) was provided during the hearing.

Based on the above evidence, I am satisfied that the tenant was served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 of the Act. The hearing proceeded in the absence of the tenant.

Issues

Is the landlord entitled to an order of possession for an early end to the tenancy?
Is the landlord entitled to recover its filing fee?

Background & Evidence

The tenancy for this apartment unit began August 1, 2017. The monthly rent is \$892.00 payable on the 1st day of each month. The tenant paid a security deposit of \$347.50 at the start of the tenancy.

The landlord is seeking an early end to the tenancy as a result of the tenant being captured on security footage stealing a parcel left for another tenant in the building. The landlord submitted a copy of the security footage. The landlord testified that another tenant in the building asked them to review the footage after a parcel they had delivered went missing. A police report was filed. The landlord further testified that the tenant's apartment has become a drug den with an incident of an overdose, smoking in the unit and regular guests in the apartment. The landlord also suspects that an increase in vehicle break-ins in the secured underground parking are a result of the tenant and/or his guests. The landlord testified that the tenant was a perfectly good tenant for years prior.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord's property;
 - 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
 - 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.

In addition to showing at least one of the above-noted causes, **the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a One Month Notice for cause to take effect.**

Without making a finding on whether or not the landlord has cause to end this tenancy on any of the above grounds, I find that the landlord has not provided sufficient evidence to meet the latter part of the above test.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect. Although I find that the tenant stealing another tenant's property is a serious offence and it may be argued that this one incident on its own be sufficient grounds to end the tenancy for cause, I find it does not merit an end to the tenancy without the required notice to the tenant, especially considering this tenancy has been ongoing without issue for approximately 5 years.

Further, I find the landlord provided insufficient evidence to support his other allegations of drug activity and vehicle break-ins. I find the landlord has presented insufficient evidence that the tenant poses an immediate serious threat to the health and safety of the landlord or other occupants or to the landlord's property. In the circumstances as described by the landlord, I find it would not be unreasonable, or unfair to the landlord to wait for a One Month Notice for cause to take effect.

Accordingly, I dismiss the landlord's application for an early end to the tenancy.

As the landlord was not successful in this application, I find that the landlord is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

The landlord's application is dismissed.

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 13, 2022

Residential Tenancy Branch