



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application by the Landlord for an early end to the tenancy and an order of possession pursuant to section 56 of the *Residential Tenancy Act* (the “Act”).

Tenant SS and Tenant DC, as named in the Landlord’s application, did not attend the hearing. I accept the Landlord’s evidence that the Tenants were served with the application, notice of hearing and evidence (the “Hearing Package”) by posting the Hearing Package on the door on October 20, 2022. Section 90 of the Act provides that a document served in accordance with section 89 of the Act is deemed to be received if posted, on the 3rd day after it is posted. Given the evidence of posting I find that the Tenants are deemed to have received the Hearing Package on October 23, 2022.

Preliminary Matter

The Landlord confirms that the signed tenancy agreement for the dispute unit is solely with Tenant SS. As Tenant DC is not a tenant under the tenancy agreement, I dismiss the application against Tenant DC.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The tenancy under written agreement started on September 1, 2022 for a fixed term to end August 31, 2023. Rent of \$2,350.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected a security deposit of \$1,175.00 and a pet deposit of \$550.00.

Prior to this current agreement the Tenant occupied the unit with a boyfriend, and both were named as tenants in a written tenancy agreement. After a fight the boyfriend moved out of the unit and the Tenant entered into the current tenancy agreement as the sole Tenant. The boyfriend broke into the unit on September 29, 2022, causing damage to the unit. The police were called to the unit and the Landlords were directed to the Residential Tenancy Branch. The Tenant has not paid rent and the Tenant is not safe. The Landlord has made an application in relation to the unpaid rent, but the hearing has yet to be scheduled.

Analysis

Section 56(2) of the Act provides that 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.

The Landlord provided no evidence of the Tenant doing anything to substantiate any of the above reasons for ending a tenancy. There is no evidence that the Tenant allowed the boyfriend into the unit resulting in extraordinary damage. It would appear that the only evidence of illegal activity would arise from the boyfriend's actions. For these reasons I dismiss the Landlord's application.

Conclusion

The 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 Act.

Dated: November 16, 2022

Residential Tenancy Branch