



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was scheduled to deal with a landlord's application for an order to end the tenancy early and obtain an Order of Possession under section 56 of the Act.

The landlord appeared at the hearing and was affirmed. There was no appearance on part of the tenant.

Since the tenant did not appear, I explored service of hearing materials upon the tenant.

The landlord testified that he posted the hearing materials to the door of the rental unit on November 29, 2022 and the landlord provided photographs as proof of service. The landlord testified that he also served the hearing materials to the tenant, in person, on November 30, 2022. I was satisfied the landlord posted the hearing materials to the rental unit door, including evidence on a USB stick, based on the evidence before me and I continued to hear from the landlord without the tenant present.

On a procedural note, the style of cause was amended to remove the landlord's erroneous attempt to add the name of the tenant's mother as a party to this matter.

Issue(s) to be Decided

Has the landlord established that the tenancy should end early and be provided an Order of Possession under section 56 of the Act?

Background and Evidence

Under an oral tenancy agreement, the tenancy started in June 2021 and the tenant paid a security deposit of \$600.00. The monthly rent was initially set at \$1200.00, plus utilities, but the parties agreed to change the tenant's monthly obligation to \$1500.00, inclusive of utilities, starting August 2021.

The landlord and his family, including children, live in the main part of the house and the rental unit is a basement suite.

The landlord submitted that the tenant did not pay rent for November 2022 and on November 7, 2022 the tenant threatened to burn the landlord's house down. The landlord called police and the police suggested to the landlord that landlord take the matter to the Residential Tenancy Branch (RTB).

The landlord submitted that on November 17, 2022 the tenant was angry about someone parking in the driveway. While the landlord was in his vehicle in the driveway with the door open and the tenant tried to shove the landlord's car door closed on him. When the landlord was outside of his vehicle, the tenant pushed the landlord. The landlord's video camera captured these interactions and the video recordings were submitted as evidence. The police were called and the police suggested the landlord take the matter to RTB but no arrests were made.

The landlord submitted to me that he and his family, including his children, are afraid of the tenant and fear he may set fire to the house. The landlord also submitted that he is reluctant to leave town to attend a family funeral for fear the tenant will burn the house down while he is away.

Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord had issued a One Month Notice to End Tenancy for Cause ("1 Month Notice") and grant the landlord an Order of Possession. The landlord must demonstrate cause for ending the tenancy and that it would be unreasonable to wait for a 1 Month Notice to take effect.

Below I have reproduced section 56 of the Act:

- 56** (1) A landlord may make an application for dispute resolution to request an order
- (a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and
 - (b) granting the landlord an order of possession in respect of the rental unit.
- (2) 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.

[My emphasis underlined]

Section 56 of the Act requires that the tenant has given the landlord cause to end the tenancy and the seriousness of the alleged offence(s) or conduct is such that the landlord may have the tenancy ended without having to serve the tenant a One Month Notice to End Tenancy for Cause under section 47 of the Act. Accordingly, section 56 of the Act is intended to apply in the most urgent and severe circumstances and applications made under section 56 are processed by RTB as an “expedited hearing”.

As provided under Residential Tenancy Policy Guideline 51: *Expedited Hearings*, expedited hearings are reserved for “... circumstances where there is an imminent danger to the health, safety, or security of a landlord or tenant...” The expedited process available for applications made under section 56 of the Act is not intended to permit “queue jumping” and to permit such would undermine the availability of hearings for truly emergency situations.

In the matter before me, I have been provided unopposed evidence by the landlord that the tenant made threats on November 7, 2022 to burn the house down. I have also been provided unopposed evidence, including video recordings, that the tenant acted aggressively and combatively toward the landlord in the driveway of the property on November 17, 2022 when the tenant tried to shut the landlord’s car door on him and pushed the landlord. It is evident to me that the tenant’s reactions are expressed in an aggressive and violent manner and I accept that there is significant fear by the landlord and the other occupants of the property that their health and safety may be at significant risk, from fire or physical assault or other harm, should the tenant be permitted to remain in the property. Therefore, I grant the landlord’s request for an Order of Possession under section 56 of the Act.

Provided to the landlord with this decision is an Order of Possession effective two (2) days after service.

The landlord is awarded recovery of the \$100.00 filing fee from the tenant and I authorize the landlord to deduct \$100.00 from the tenant’s security deposit to recover this award.

Conclusion

The landlord's application for an order to end the tenancy and obtain an Order of Possession under section 56 of the Act is granted.

The landlord is provided an Order of Possession effective two (2) days after it is served to the tenant.

The landlord is authorized to deduct \$100.00 from the tenant's security deposit to recover the \$100.00 filing fee paid for this application.

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: December 13, 2022

Residential Tenancy Branch