



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing convened as a result of the landlord's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for an order ending the tenancy early due to urgent health or safety issues pursuant to section 56 of the Act and recovery of the cost of the filing fee.

At the hearing, the landlord and legal counsel (counsel) attended. The tenant did not attend the hearing. For this reason, service of the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

Counsel said that the tenant was served the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on November 18, 2022. The landlord provided the Canada Post tracking number in their written submissions. Counsel said the mail was claimed on or about November 24, 2022.

Based on the landlord's testimony and evidence, I find the tenant was sufficiently served under the Act and the hearing proceeded in the tenant's absence. I consider this matter to be unopposed by the tenant, as they failed to attend the hearing despite being sufficiently served notice of the hearing.

During the hearing the landlord and counsel were given the opportunity to provide their evidence orally and refer to evidence filed in advance of the hearing.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the submissions and or arguments are reproduced in this

Decision. Further, only the evidence relevant to the issues and findings in this matter are described in this Decision, per Rule 3.6.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Procedural matter –

Rule 10.2 requires that an applicant must submit all evidence that the applicant intends to rely on at the hearing with the application for dispute resolution. This evidence must be served to the other party in one package. The landlord included letters from other tenants and the witness.

In this case, counsel also filed written submissions with some attached evidence. These documents were not served to the tenant. I have therefore accepted the submissions of counsel, but did not accept any additional attached evidence.

The hearing proceeded on the testimony and documentary evidence filed with the application.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy early and obtain an order of possession for health or safety reasons under section 56 of the Act?

Is the landlord entitled to recovery of the cost of the filing fee?

Background and Evidence

The evidence taken at the hearing was that the tenancy began on January 1, 2020. The landlord said that the rental unit was in a 4-plex residential property in which she has three other sets of tenants.

The landlord submitted the following, through counsel and testimony. That at least since October 18, 2022, the police have been called out to the residential property multiple times because of the tenant's actions, causing the other tenants to fear for their safety. In one instance, the police found a firearm, and declared to the other tenants

that the rental unit was an active crime scene. In another instance, the tenant was taken away by the police.

The tenant keeps his door unlocked and that many times, there are multiple people coming and going into the rental unit.

The other tenants have been berated by the tenant and his guests, and that the tenant and his guests have been consuming drugs in the rental unit and around the property.

The tenant has caused property damage, which included tearing out screens and coming in through the window.

The landlord also submitted, with her application, letters from the witness and other tenants explaining the events at the residential property to support the landlord's application.

One letter from another tenant spoke about an angry and aggressive confrontation with a friend of the tenant, who called her disgusting names before going back into the rental unit, making excessive noises.

Landlord's witness –

The witness stated his daughter and granddaughter were tenants in the 4-plex, who were forced to vacate the property because they feared for their safety due to the tenant and his guests. The witness said his daughter was too scared of the tenant to personally attend the hearing. The witness said that he has not only heard the details from his daughter about the threats to their safety, he has witnessed many of the events himself.

The witness said he has heard loud and threatening arguments coming from the tenant's rental unit and that he saw drug transactions. The witness said the police have attended many times due to the activities of the tenant, which included drug consumption and overdoses. The witness said that on the day his daughter moved out at the end of October, there was an unbelievable fight between the tenant and a young woman, which resulted in the police being called out.

In his written letter, the witness stated that when he was at the residential property on October 28, 2022, helping his daughter move, there was a gun drawn and a violent

argument, which caused the arrival of the police tactical unit. The witness stated he was deposed by a police officer.

Analysis

In order to establish grounds to end the tenancy early under section 56 of the Act, the landlord must not only establish that they have cause to end the tenancy, but that it would be unreasonable or unfair to require the landlords to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the testimony of the landlord and their witness, I find that the landlord has met that burden.

Based on the undisputed testimony of the landlord and their witness provided during the hearing, and on a balance of probabilities, I accept the landlord's undisputed evidence that the tenant has both significantly interfered with or unreasonably disturbed another occupant of the residential property and seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

I find the actions of the tenant and his guests caused the police to be called to the residential property numerous times, for various reasons, including drug related matters and possession of a firearm.

By having the police called out to the residential property numerous times for various reasons, including drug related matters and possession of a firearm, by destroying property, and by being arrested for possession of a firearm, I find the landlord submitted sufficient evidence to substantiate that the tenant and his guests significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property.

Due to the above, I am also satisfied that it would be unreasonable and unfair to the landlord and the other occupants of the residential property to wait for a One Month Notice to End Tenancy to take effect.

I therefore grant the landlord's application to end this tenancy early.

I also grant the landlord recovery of their filing fee of \$100, pursuant to section 72(1) of the Act.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service on the tenant. I find

the tenancy ended the date of this hearing, December 8, 2022, pursuant to sections 56 and 62(3) of the Act.

If it becomes necessary for the landlord to enforce the order of possession of the rental unit, the tenant is cautioned that they may be liable for **bailiff and all other costs**.

I authorize the landlord to deduct \$100 from the tenant's security deposit in satisfaction of recovery of their filing fee.

Conclusion

The landlord's application is successful. I order that the tenancy ended this date, December 8, 2022.

The landlord is granted an order of possession effective two (2) days after service on the tenant.

The landlord is granted authority to deduct \$100 from the tenant's security deposit to satisfy a monetary award for recovery of the filing fee.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: December 08, 2022

Residential Tenancy Branch