



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord filed under the *Residential Tenancy Act* (the “Act”) for an early end to the tenancy as it would be unreasonable, or unfair to the landlord or other occupants to wait for a Notice to End Tenancy for Cause to take effect and to recover the cost of the filing fee

The landlord attended the hearing. As the tenant did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served on the tenant in person on January 12, 2023. I find the tenant was duly served in accordance with the Act.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy end early pursuant to section 56 of the Act?

Background and Evidence

The tenancy began on July 1, 2018. Rent in the amount of \$1,350.00 was payable on the first of each month. A security deposit of \$675.00 was paid by the tenant.

The landlord had issued a One Month Notice for Cause, issued on November 15, 2022, with an effective date of December 15, 2022. The tenant disputed the notice to end tenancy and the hearing is scheduled for April 3, 2022.

The landlord made this application to end the tenancy earlier on December 15, 2022. The allegation within the application are as follows:

Please describe why this early end of tenancy is being requested: [REDACTED] is danger to me and others.	
He mistreats my property grossly and verbally abusing me and my tenants. He brings a lot of trash to the property including old electric equipment which he connects to the power causing constantly power breakers go off. Two of the breakers now have to be replaced (waiting for electrician). Recently he removed my fridge from his unit without my permission and connected a fridge he brought in to the house. Daily he brings drugs and drug people over. On Dec. 3 rd he overdosed (right in my garden) and after 9:20pm I had Police, Firefighters and Ambulance reviving [REDACTED] back to life. Please help me as I am worrying what he might do next. Thank you.	
Serving Notice	

The landlord further submits to the RTB the following submission for the basis of this application:

- Just recently [REDACTED] has been assessed by Social Services and has been found a danger to his daughter. I understand it is due to his extremely cluttered place full of fire hazard and his illegal drug related activities. His daughter resides next door to [REDACTED] him with her mom and grandmother. Therefore, she sees her father daily activities. She must be aware of Police, Ambulance and Firefighters reviving [REDACTED] as he overdosed on Dec. 3rd as I mentioned earlier. The information about Social Services assessment is I heard from [REDACTED] mother in law.
- [REDACTED] continuously is causing fire hazard as he brings old and used numerous appliances and electrical equipment which he connects to the power in the house. He connects it inside and outside of the house, with many electric cables hanging around ceilings, walls and floors indoors and outside on the patio causing fire and tripping hazards. All this connections are causing power breakers goes off daily often few times a day or at night. As it happen [REDACTED] calls and demands the breakers to be switch right away regardless how often he causing it or what time it is.
- [REDACTED] removed my fridge from his apartment and refused to put it back on my request. I try to reason with him but he called me (F) names and told me that I am harassing him and that I better (F) go.

The landlord testified that the tenant is a danger to their daughter and ex-wife as he lives next door to his family in a separate rental unit. The landlord states the tenant calls his daughter and ex-wife names and the Social Services has determined that his daughter is in danger due to the condition of the rental unit and his illegal drug use.

The landlord testified that the tenant has a problem with drinking and drugs and is screaming all the time and calls them names. The landlord did not provide any dates or times or specific details.

The landlord testified that just last week a group of boys were trying to break into their vehicle and ran away. The landlord stated that they believe this is related to the tenant's drug use.

The landlord testified that the tenant is collecting trash, and electric equipment and leaving it outside of the rental unit, causing a safety issue and the use of this electrical equipment is causing the breakers to trip and causing damage. The landlord stated that they are concerned that this could be a fire hazard. The landlord testified that they have not been able to inspect the rental unit to determine if it is hazardous as the tenant will not allow access. Filed in evidence are photographs.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Application for order ending tenancy early

56 (1)A landlord may make an application for dispute resolution requesting

(a)an order 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)an order granting the landlord possession 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.
- (3)If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

This expedited hearing gave the tenant less than 7 clear days of the hearing, such short notice is for extremely urgent cases, these are cases where there is a demonstrable immediate danger or threat.

The landlord has issued a notice to end tenancy under section 47 of the Act on November 14, 2022, which the tenant has disputed, and a hearing is scheduled for April 3, 2022. An expedited hearing is not a way to bypass normal service and response time limits to get a quicker hearing.

The landlord was granted an expedited hearing on the three grounds I have noted above.

The first ground the landlord alleged that social services has found the tenant is a danger to his daughter due to the condition of the rental unit and drugs; however, that is an issue for social services to resolve. The daughter lives in a separate unit with their mother. Further, I have no evidence from Social Services, or the mother of the child, that the child is in any danger by the tenant residing in their own separate rental unit.

The second ground the tenant continuously is causing a fire hazard as he brings old and used numerous appliances and electrical equipment to the property. However, this allegation has been ongoing and a reason within the notice to end tenancy pursuant to section 47 of the Act.

Further, while the landlord has provided photographs of trash and items outside the rental unit; I am not satisfied that this alone proved that the property is in any immediate fire hazard, that would give grounds to end the tenancy early under section 56 of the Act. I have no evidence that the landlord has ever put the tenant on formal notice that

these items must be removed by a date certain or that there has been any independent inspection, such as an assessment by the fire department or bylaw department.

The third ground the tenant has removed the fridge from his apartment and refused to put it back. This is not ground to end a tenancy pursuant to section 56 of the Act and this is also alleged in the notice to end tenancy pursuant to section 47 of the Act.

Based on the above, I must dismiss the landlord's application to end the tenancy early due to insufficient evidence. The merits of the One Month Notice for Cause will be heard as scheduled.

I caution the tenant that they must not refuse access to the rental unit when given notice by the landlord for inspection. Should access be denied this could be grounds to end the tenancy.

I Order the tenant should the fire department attend the premises to inspect the rental unit to ensure it is not a fire hazard. The tenant must allow the fire department immediate access the rental unit. Should the tenant fail to do so, the landlord may issue a new One Month Notice for Cause for failure to comply with an order of the Director.

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: January 20, 2023

Residential Tenancy Branch