



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on December 12, 2022. The Landlord applied for an order of possession pursuant to section 56 of the Residential Tenancy Act (the Act) and to recover the filing fee pursuant to section 72 of the Act.

The Landlord attended the hearing and was accompanied by his mother. However, the Landlord's mother did not participate in the hearing as she only speaks Punjabi. The Tenants attended the hearing and were accompanied by KT, an advocate who assisted with translation. All those giving evidence provided a solemn affirmation.

The Landlord testified the Notice of Dispute Resolution Proceeding package was served on the Tenants in person on December 20, 2022, and that service in this manner was witnessed by JSR. A signed Proof of Service Notice of Expedited Hearing document was submitted in support. KT acknowledged receipt on behalf of the Tenants. I find the Tenants were served with and received these documents on December 20, 2022.

The Tenants did not submit documentary evidence in response to the Application.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issues

1. Is the Landlord entitled to an order of possession?
2. Is the Landlord entitled to recover the filing fee?

Background and Evidence

The parties did not agree with respect to the date the tenancy began. However, they agreed that rent of \$800.00 per month is due on the 15th day of each month. The Tenants paid a security deposit of \$400.00, which the Landlord holds. A tenancy agreement was not submitted into evidence.

The Landlord testified that several issues have come up since April 2022, after the Tenants were told that the rental unit would be required to accommodate the Landlord's parents.

First, the Landlord testified that the Tenants have not paid rent in full since April 2022. Specifically, the Landlord testified that the Tenants have only paid rent once on June 15, 2022.

Second, the Landlord claimed that one or both of the Tenants yelled at his mother.

On behalf of the Tenants, KT testified that rent has been paid in cash and is up to date. KT also denied that the Tenants yelled at the Landlord's mother.

In addition, KT submitted that the Landlord merely wants to end the tenancy to increase the rent.

Analysis

Based on the documentary evidence and affirmed oral testimony, and on a balance of probabilities, I find:

Section 56 of the Act permits a landlord to end a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 of the Act. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the Act, which states:

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...

- (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.

In this case, I find there is insufficient evidence before me to find the Landlord is entitled to an order of possession for any of the reasons enumerated in section 56(2)(a) of the Act. The Landlord's claim that one or both of the Tenants yelled at his mother was not supported by witness testimony and the Tenants denied that this occurred.

In addition, the Landlord's testified that the Tenants have not paid rent in full. Although this may be true, section 56 of the Act is not intended as a catch-all for any grievance a landlord may have with a tenant. It is for urgent matters. If rent is not been paid when due, section 46 of the Act provides a process for issuing a notice to end tenancy for unpaid rent.

Further, I do not find it would be unreasonable or unfair for the Landlord to wait for a notice to end the tenancy under section 47 of the Act.

Considering the above, I order that the Landlord's application is dismissed without leave to reapply.

Conclusion

The Landlord's application is dismissed without leave to reapply.

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 4, 2023

Residential Tenancy Branch