



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding RAINCITY HOUSING AND SUPPORT
SOCIETY and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

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.

Both the landlord's agents and the tenant appeared for the hearing. The tenant was also accompanied by a social worker. The parties were affirmed.

I confirmed the landlord had served the tenant with its proceeding package and evidence, in person, on February 9, 2023. Accordingly, I have admitted the materials and considered it making this decision.

Both parties had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

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

The tenancy started on May 1, 2012 and the tenant is currently required to pay rent of \$383.00 on the first day of every month. The rental unit is described as being a bachelor style apartment in an apartment building managed by the landlord.

The landlord's application revolves around an incident that occurred on February 5, 2023. Below, I have summarized the parties' respective positions.

The events of February 5, 2023 were largely undisputed. On February 5, 2023 the tenant entered another tenant's unit and assaulted the other tenant by pouring an accelerant (lighter fluid) on that tenant and lighting that tenant on fire. The tenant also stabbed her boyfriend in the head in the rental unit. The police were called and the police removed the tenant from the residential property. The tenant returned to the rental unit a few days later and continues to occupy the rental unit.

The landlord's agent testified that on February 7, 2023 the landlord posted a One Month Notice to End Tenancy for Cause ("One Month Notice") on the door of the rental unit. On the same date, the landlord also made this Application for Dispute Resolution seeking an emergency eviction.

The landlord submitted that the victim has asked the landlord to bar the tenant from the building. The landlord seeks to end the tenancy on an urgent basis as the landlord for concerns for the safety of its other tenants and the landlord's staff person.

The tenant explained that she had been using crack-cocaine for days prior to February 5, 2023 and she thought people were trying to kill her. The tenant hurt the wrong people. The police took the tenant to the hospital where she was held in a secured unit for two days and then in an unsecured unit for another day. The tenant was subsequently released from the hospital and has returned to the residential property. Since her return, the tenant has reconciled with her boyfriend and there have been no issues further issues of aggression. The tenant stated she tried to apologize to the other tenant but that tenant told her to stay away from her.

The social worker appearing with the tenant acknowledged the tenant has a tendency toward aggression when using substances; however, the tenant has been working with a team since November 2022 and since the incident of February 5, 2023 the tenant has continued working with the team and has been willing to take medication to curb the cravings and reaction to drugs.

The tenant confirmed she has taken a once-monthly injection of medication that stops her from getting high when she does drugs.

The landlord was unwilling to continue this tenancy, pointing out that it has an obligation to ensure the safety of its other tenants and its staff persons. The landlord stated this is not the tenant's first act of aggressive act toward the other tenant and the tenant has been aggressive toward the landlord's staff as well.

The tenant denied she was aggressive toward the other tenant previously or toward landlord's staff persons.

In the event I grant the landlord's application, I canvassed the parties as to an effective date for an Order of Possession. The landlord requested an order effective seven days after service and the landlord will refund any portion of March's rent after the tenant vacates. The tenant requested that she be permitted to occupy the rental unit until the end of March 2023.

Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord 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 47 of the Act provides a mechanism for landlords to bring a tenancy to an end where the tenant has given the landlord cause to end the tenancy. A notice given under section 47 affords the tenant ten days to dispute the 1 Month Notice or at least one full move to vacate the rental unit. Section 56 also requires that the tenant has given the landlord cause to end the tenancy; however, the seriousness of the alleged offence(s) or conduct permits the landlord to have the tenancy ended without the time afforded to the tenant under section 47. Accordingly, section 56 is intended to apply in the most urgent and severe circumstances and are processed 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.

The landlord's agent acknowledged that the landlord had served the tenant with a One Month Notice following the incident of February 5, 2023. I am of the view that in itself is not a fatal flaw and that an application under section 56 may still be made since a One Month Notice may take months to enforce. Accordingly, I proceed to consider whether the landlord has demonstrated the tenant has given the landlord cause to end the tenancy and that the circumstances are such that it would be unreasonable to wait for the One Month notice to take effect.

In the case before me, it is undisputed that on February 5, 2023 the tenant physically assaulted two people on the residential property: another tenant and the tenant's guest. Accordingly, I am satisfied that the tenant has given the landlord cause to end the tenancy under section 56(2)(a)(i) and (ii) and 56(2)(a)(iv)(B).

I am of the view that setting another person on fire and stabbing another person in the head are such significant and violent acts that it warrants a quick end to the tenancy so as to protect the health and safety of other occupants of the property that the landlord has a lawful duty to protect. I also recognize that as an employer, the landlord also has a duty to protect the health and safety of its employees.

While I applaud the tenant's willingness to work with a team and willingness to take medication to curb her use of drugs and I encourage the tenant to continue to seek treatment, I find there was little assurance before me that future aggressive and/or violent behaviour by the tenant, while on the residential property, is unlikely. I am also of the view that it would be unreasonable to expect the tenant's victim (the other tenant) to continue to reside in the same building as the tenant and to permit such would give the perception that violent acts towards other tenants is without consequence. Therefore, I find the landlord's application has merit and I grant the landlord's request.

I find the landlord's request for an Order of Possession effective seven (7) days after service to be very reasonable in the circumstances and I provide the landlord with such an order.

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.

I order the tenancy ended effective seven (7) days after the Order of Possession is served upon the tenant.

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: February 28, 2023

Residential Tenancy Branch