



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

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DECISION

Dispute Code: ET

Introduction

The landlord seeks orders pursuant to section 56(1) of the *Residential Tenancy Act*.

Preliminary Issue: Service of Notice of Dispute Resolution Proceeding

A hearing was held by teleconference on February 27, 2023 at 11 AM. A representative for the landlord attended the hearing at 11:02 AM. The representative was affirmed before providing or presenting any evidence. The tenant did not attend the hearing which ended at 11:07 AM.

The representative testified under oath that a copy of the Notice of Dispute Resolution Proceeding was served upon the tenant by being posted to the door of the tenant's rental unit on February 9, 2023 at 1:25 PM. Service was witnessed by a third party. Based on this undisputed evidence it is my finding that the tenant was served in accordance with the *Residential Tenancy Act* (the "Act") and the Rules of Procedure.

Issue

Is the landlord entitled to an order ending the tenancy early and an order of possession of the rental unit pursuant to section 56(1) of the Act?

Background and Evidence

The tenant started a fire in the hallway outside their rental unit on February 4, 2023 in the early morning hours. The tenant then stomped the fire out. A short time later, the tenant started another fire, this time inside their rental unit. The fire was not put out, the sprinklers were activated, and water damage then resulted to the rental unit and to several other units. The tenant was arrested and charged with arson.

The landlord's representative testified that not only is the causing of fires a risk to the property and to other occupants within the building, but other occupants have become increasingly aggressive toward the fire-starting tenant.

Submitted into documentary evidence by the landlord, and confirmed as accurate by the landlord's representative, was an incident report, a copy of the court charge sheet and court appearance, and five security camera videos. One of the videos shows the tenant starting, and then stomping out, the fire in the hallway.

Analysis

This application is made under section 56(1) of the Act which states that

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.

In order to grant the orders under this section, section 56(2)(a) and (b) of the Act states that an arbitrator must be satisfied on a balance of probabilities that

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, the affirmed oral and documentary evidence persuades me to find, on a balance of probabilities, that the tenant seriously jeopardized the health and safety of other occupants of the multi-unit residential property, that they put the landlord's property at significant risk, and that they engaged in illegal activity (that is, arson) that caused damage to the landlord's property.

Further, based on the extreme risk that a deliberately set fire poses to the safety of the other occupants and to the landlord's property, it is wholly unreasonable to the landlord and the other occupants of the residential property to have to wait for a One Month Notice to End Tenancy for Cause. Indeed, that the landlord filed this application within days after the fires were set reflects the seriousness of the matter.

Taking into consideration all the evidence before me, it is my finding that the landlord has proven that they are entitled to orders under section 56(1) of the Act. As such, pursuant to section 56(1)(a) of the Act, I order that the tenancy is ended effective immediately.

Pursuant to section 56(1)(b) of the Act the landlord is granted an order of possession of the rental unit. A copy of the order of possession is issued within this Decision to the landlord; the landlord must serve a copy of the order of the possession upon the tenant.

Conclusion

The application is GRANTED.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: February 27, 2023

Residential Tenancy Branch