



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing was convened in response to an application by the Landlord for an early end to the tenancy and an order of possession pursuant to the *Residential Tenancy Act* (the “Act”). The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions. The Tenant confirms receipt of the Landlord’s evidence.

Issue(s) to be Decided

Is the Landlord entitled to an order of possession?

Background and Evidence

The following are agreed or undisputed facts: the tenancy under written agreement started on July 1, 2017. The person named in this application as Tenant SJ is not a tenant named in the tenancy agreement. Rent of \$1,500.00 is payable on the first day of each month. In November 2022 the Landlord served the Tenant with a one month notice to end tenancy for cause (the “Notice”). The Tenant disputed the Notice and a hearing on this dispute is scheduled for April 20, 2023.

The Landlord confirms that the details in the Notice are the same details upon which the Landlord has relied for this claim. The Landlord confirms that while the issues are ongoing there has not been any escalation of behavior. The Landlord states however that since issuing the Notice the Tenant has threatened to kill the upper tenant’s dog with poison and in December 2022 threatened to punch the Landlord’s son. The

Landlord states that there is no supporting evidence of the poison threat as it was made verbally to the upper tenant. The Landlord states that they were informed by a contractor who was at the unit when Tenant SJ had made the threat to punch the Landlord's son. The Landlord confirms that the threat of assault to the Landlord's son was not reported to the police. The Tenant states that she was present while the contractor was present and that she has recall that Tenant SJ had referred to the Landlord's son at the time but had only stated that the son "could be a problem". The Tenant states that Tenant SJ never made any threats.

The Tenant states that the reference to poison is in relation to the presence of rats outside the unit and that the Landlord was informed that the Tenants were going to put rat poison outside the unit. The Tenant states that this occurred in January 2023 and that the poison was never put out due to weather at the time hampering the effects of the poison. The Tenant states that there was never any threat to harm the upper tenant's dog, that Tenant SJ loves animals and would never harm a dog. The Landlord confirms that there are rats in the yard and knew that the Tenants were going to put out rat poison.

The Tenant states that the Landlord served the Notice 2 days after the Tenants made complaints about the condition of the unit.

Analysis

Section 56(2) of the Act provides that 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.

Ending a tenancy early is an extraordinary measure and carries a very high threshold to be met. The Landlord's testimony is that the evidence and details used to support the issuance of the Notice are the same details being relied upon for this claim. The Landlord's evidence is that there has been no escalation of behavior. The testimony about poison is not sufficiently significant as the Landlord had knowledge that the Tenants were going to place poison in the yard while at the same time being aware that the upper tenant had a dog. I also do not consider a one-time threat made about the Landlord's son to be evidence of immediate risk or severe harm to the Landlord or the son as this was not reported to the police and does not appear to have been taken very seriously by the Landlord. For these reasons I find that the Landlord has not provided evidence that it would be unfair to wait for the Notice to take effect as may be determined at the upcoming hearing. The application is therefore dismissed.

Conclusion

The application is dismissed, and the tenancy continues.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: February 07, 2023

Residential Tenancy Branch