



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

A matter regarding PARK PLACE SENIORS LIVING
INC. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord March 06, 2023 (the “Application”). The Landlord applied for an order ending the tenancy early based on section 56 of the *Residential Tenancy Act* (the “Act”). The Landlord also sought reimbursement for the filing fee.

D.R. appeared for the Landlord at the hearing. The Tenant did not appear at the hearing. I explained the hearing process to D.R. I told D.R. they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). D.R. provided affirmed testimony.

The Landlord submitted evidence prior to the hearing. The Tenant did not submit evidence. I addressed service of the hearing package and Landlord’s evidence.

D.R. testified that the hearing package and evidence were sent to the Tenant by registered mail. The Landlord submitted documentary evidence of service with Tracking Number 960 on it. I looked Tracking Number 960 up on the Canada Post website which shows the package was sent March 07, 2023, and delivered March 13, 2023.

Based on the undisputed testimony of the Landlord, documentary evidence of service and Canada Post website information, I accept that the Tenant was served with the hearing package and evidence in accordance with sections 88(c) and 89(1)(c) of the *Act*. Based on the Canada Post website information, I accept that the Tenant received the hearing package and evidence March 13, 2023. I find the Landlord complied with rule 10.3 of the Rules in relation to the timing of service.

Given I was satisfied of service, I proceeded with the hearing in the absence of the Tenant. D.R. was given an opportunity to present relevant evidence and make relevant submissions. I have considered all evidence provided. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Landlord entitled to an order ending the tenancy early pursuant to section 56 of the *Act*?
2. Is the Landlord entitled to reimbursement for the filing fee?

Background and Evidence

The Landlord submitted a written tenancy agreement between the parties. The tenancy started in 2016.

D.R. testified as follows. The rental unit property is an unsightly mess and bylaw officers are getting involved due to this. The Tenant is allowing others to live in fifth wheels and campers on the property. The state of the rental unit and property is not healthy and is unsanitary. The rental unit and property are uninhabitable due to extreme "hoarding". D.R. has had to attend the property with RCMP because they do not know who is living on the property. There has been stolen property brought onto the property. The Tenant is using drugs. D.R. has tried to work with the Tenant about these issues; however, the Tenant is unwilling to work with D.R.

The Landlord submitted documentary evidence about the state of the rental unit and the number of people living on the property.

Analysis

Section 56 of the *Act* allows an arbitrator to end a tenancy early when two conditions are met. First, the tenant, or a person allowed on the property by the tenant, must have done one of the following:

1. Significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;

2. Seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
3. Put the landlord's property at significant risk;
4. Engaged in illegal activity that has (a) caused or is likely to cause damage to the landlord's property (b) 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) jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord; or
5. Caused extraordinary damage to the residential property.

Second, it must be unreasonable or unfair to require the landlord to wait for a One Month Notice to End Tenancy for Cause issued under section 47 of the *Act* to take effect.

Pursuant to rule 6.6 of the Rules, the Landlord, as applicant, has the onus to prove the circumstances meet the above two-part test. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

I accept the facts as alleged by the Landlord because D.R.'s testimony is undisputed and the Landlord submitted documentary evidence to support it. However, I am not satisfied the circumstances are sufficient to meet the second part of the test set out above. Section 56 of the *Act* is reserved for the most serious of circumstances. In my view, it applies when there are risks to safety, violence or threats. The circumstances must be so severe as to warrant the Landlord ending the tenancy without serving the Tenant a notice. The issues here relate to the state of the property and letting unknown individuals live on the property. In my view, these issues can be dealt with through a One Month Notice issued pursuant to section 47 of the *Act* and are not serious enough to deem urgent. I note that this tenancy has been ongoing since 2016. I note that the state of the rental unit and property clearly did not develop within a short period of time and that it will clearly take time to address. I do not see the circumstances as urgent or an emergency.

Given the above, I dismiss the Application without leave to re-apply. It appears the Landlord has issued the Tenant a One Month Notice and it is open to the Landlord to

apply for an Order of Possession based on the One Month Notice in accordance with the *Act*.

Conclusion

The Application is dismissed without leave to re-apply.

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: March 27, 2023

Residential Tenancy Branch