



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **ET**

Introduction

This hearing dealt with the Landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for an early end to the tenancy and an Order of Possession pursuant to Section 56 of the Act.

The hearing was conducted via teleconference. The Landlord, her Support and the Tenant attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The Landlord served the Notice of Dispute Resolution Proceeding package and evidence for this hearing to the Tenant by attaching a copy to the Tenant's door on February 23, 2023 (the "NoDRP package"). The Landlord provided a video of service of the NoDRP package that was dated February 23, 2023. The Tenant confirmed receipt, he said, on February 25, 2023. I find that the Tenant was deemed served with the NoDRP package for this hearing three days after posting, on February 26, 2023, in accordance with Sections 89(2)(d) and 90(c) of the Act.

Issue to be Decided

Is the Landlord entitled to an early end to the tenancy and an Order of Possession?

Background and Evidence

I have reviewed all written and oral evidence and submissions presented to me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this periodic tenancy began on April 11, 2022. Monthly rent is \$3,200.00 payable on the last day of each month. A security deposit of \$1,600.00 was collected at the start of the tenancy and is still held by the Landlord.

The Landlord testified that the Tenant subletted the residential property to six other tenants, and those tenants started complaining about the Tenant to the Landlord. The Landlord said the other tenants told her he was threatening and harassing them. One tenant told her that the Tenant broke his bedroom door lock and he resorted to sleeping in another tenant's room. The Landlord said the Tenant would enter the other tenants' rooms without permission. As of the hearing date, there is one remaining renter living in the residential property.

The Landlord stated that the Tenant stays in the downstairs of the home, and he rents out two rooms downstairs, and three rooms upstairs. She said she was shocked when she found out he was renting rooms in the home. She claims he turns off the electricity and furnace when he wants. The Landlord shared that the Tenant blasts his music, so much so that the neighbours complain. She also claims he changes the password for the Wi-Fi making it unavailable for the other tenants living in the home.

The Landlord alleges that the Tenant leaves trash around the residential property. She has received two city bylaw warnings about the mess around the property. The Landlord shared that the garbage has now been cleaned up, but she is worried it will go back to being unsightly.

The Landlord stated that the Tenant also brought in a renter who lives in her trailer on the property. The Landlord claims that the sewage pipe from the trailer dumps into the creek beside the property. Just recently, the person in the trailer moved out on March 4, 2023.

The Landlord stated that the Tenant has done a lot of damage to the inside of the rental unit. The Landlord claims the Tenant has damaged the doors, walls, and bathroom sink.

She also claims he has spray painted profanities on the walls inside the rental unit using her last name.

The Landlord testified that the Tenant removed the thermostat, and a smoke detector in the home. On January 14 at 4:00 a.m., the Tenant left bacon cooking on top of the stove. The other tenants woke up to the smoke.

The Landlord claims the police have attended the residential property at least three times because the Tenant was fighting with the other tenants. The Landlord alleges that the Tenant has lunged at her husband, and at her daughter's husband. The Landlord said she has tried talking to the Tenant about these situations, but he has refused to move.

The Tenant testified that the extra roommates he took in, he met on Facebook. The Tenant claims the Landlord asked him to find roommates. The Tenant said the Landlord knows about the roommates, she meets them, and the Tenant gets the Landlord's permission to have any roommate. The Tenant maintains that he has never threatened anyone living in the rental unit.

The Tenant said he was asked to complete renovations in the home because once the rooms were complete, the Landlord would get more money.

The Tenant admits to spray painting the walls inside the rental unit. He said he was angry because the Landlord brought in her own internet service, and it cut off his internet service. The Tenant said he has done a lot painting in the rental unit to cover up all his spray painting. He said the internet problems were resolved in January; however, he apologized and said that his actions were wrong.

The Tenant said he has not been aggressive or threatened his roommates. He said they were all on good terms. He said that one roommate lost his keys twice, and the Tenant kicked in the roommate's bedroom door with the roommate's permission.

The Tenant said the yard is completely cleaned up, and the pipe from the RV camper was removed on March 2 or 3 this year.

The Tenant testified that the police came to the residential property because the furnace was turned down. He said the police told him that was not a police matter. Anyways, the Tenant claims he did not turn down the furnace.

The Landlord seeks an early end of tenancy, and an Order of Possession. The Tenant wants the Landlord's application dismissed.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus, in this application, is on the Landlord to prove, on a balance of probabilities, the grounds on which this application for an early end to tenancy were based.

In this matter, Section 56 of the Act is relevant. It states:

Application for order ending tenancy early

- 56** (1) *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.*
- (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.*
- (3) *If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy. (emphasis mine)*

RTB Policy Guideline #51-Expedited Hearings addresses the issues that are important for an early end of tenancy. Under Section 56 of the Act, a landlord may obtain an early end of tenancy and an Order of Possession if it would be unreasonable or unfair to the landlord or other occupants of the property to wait for a notice to end tenancy to take effect under Section 47 the Act. It further clarifies this Section stating:

Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence. An example of a serious breach is a tenant or their guest pepper spraying a landlord or caretaker.

The landlord must provide sufficient evidence to prove the tenant or their guest committed the serious breach, and the director must also be satisfied that it would be unreasonable or unfair to the landlord or other occupants of the property or park to wait for a Notice to End Tenancy for cause to take effect (at least one month).

Without sufficient evidence the arbitrator will dismiss the application.

Evidence that could support an application to end a tenancy early includes photographs, witness statements, audio or video recordings, information from the police including testimony, and written communications. Examples include:

- *A witness statement describing violent acts committed by a tenant against a landlord;*
- *Testimony from a police officer describing the actions of a tenant who has repeatedly and extensively vandalized the landlord's property;*
- *Photographs showing extraordinary damage caused by a tenant producing illegal narcotics in a rental unit; or*
- *Video and audio recordings that clearly identify a tenant physically, sexually or verbally harassing another tenant.*

(emphasis mine)

The Landlord testified that the Tenant subletted the residential property; however, he remained in the rental unit. The Landlord claims that the Tenant was threatening and harassing the new tenants. She described events where the Tenant broke a bedroom door lock or that he would enter the new tenants' rooms without their permission.

The Landlord argued that the Tenant is leaving garbage on the grounds of the property, so much so that a bylaw officer issued her a warning to clean up the unsightly mess. The Landlord claims that the Tenant is causing a lot of damage inside the rental unit. Some of the damage includes the Tenant removing a thermostat and a smoke detector from the inside of the house.

The Landlord claims the police have attend the residential property because the Tenant was fighting with the other tenants. The Landlord alleges that the Tenant has lunged at her husband and son-in-law.

The Landlord uploaded some pictures of damage inside the rental unit and garbage mess around the property.

The Landlord did not explain why it would be unreasonable or unfair to the Landlord to wait for a notice to end the tenancy under Section 47 of the Act. The Landlord did not provide adequate documentary evidence to support her allegations. The Landlord did not call any witnesses or invite police to provide evidence to support her claims. The Landlord has the burden of proof in this matter, and I find the Landlord has not proved on a balance of probabilities that the matters described are serious or urgent enough to end this tenancy pursuant to Section 56 of the Act. I find it would not be unreasonable or unfair to the Landlord to wait for a notice to end the tenancy under Section 47 of the Act. The Landlord's application does not meet the requirements of Section 56(2)(b) of the Act.

The Landlord's application is dismissed, and the tenancy will continue until ended in accordance with the Act.

Conclusion

The Landlord's application is dismissed.

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 13, 2023

Residential Tenancy Branch