



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ET, FFL

Introduction

This hearing dealt 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.

The Landlord's representative appeared for the hearing and was affirmed. There was no appearance on part of the tenants.

Since the tenants did not appear, I explored service of the hearing materials upon the tenants. The landlord's representative testified that the proceeding packages and the evidence was served by posting the materials to the door of the rental unit on April 19, 2023 in the presence of a witness. The landlord provided photographs of the packages taped to the rental unit door and a signed Proof of Service form. I was satisfied the tenants were duly served with the hearing materials in a manner that complies with the Act and I continued to hear from the landlord's representative without the tenants present.

Issue(s) to be Decided

1. Has the landlord established that the tenancy should end early and be provided an Order of Possession under section 56 of the Act?
2. Award of the filing fee.

Background and Evidence

The tenancy started on December 7, 2022 and the tenants are required to pay rent of \$2440.00 on the first day of every month. The rental unit is described as being a two bedroom house with basement and a separate garage.

The landlord seeks to end the tenancy early due to damage that has been caused to the property, multiple violations of the Act and tenancy agreement and City by-laws, and risk of significant risk harm to the property and/or occupants of the property should the tenancy continue. The landlord's representative described the following circumstances:

1. The condition of the interior and exterior of the house is filthy, reeks of feces and is hoarded with:
 - a. Two litters of kittens and dogs are in the house despite the "no pet" term in the tenancy agreement, creating a strong odour of feces and damage in the house; and,
 - b. Piles of garbage, including wood pallets and rotting food, are on the property and in the house, creating damage, a horrible odour, and a fire hazard.
2. The two bedroom rental unit has been altered to accommodate an unreasonable number of people (least 8) by:
 - a. The living room was closed off by an unauthorized alteration to install a locking door and moving of the electrical thermostat;
 - b. Creating two bedrooms in the vaulted ceiling area;
 - c. Three filthy mattresses are on the floor in the basement; and,
 - d. A recreational vehicle is parked on the property and being occupied by an unknown number of occupants contrary to City by-laws.
3. The basement has been segregated from the rest of the house by way of a locked door that has been installed. The door impedes air flow for the furnace and the accumulation of items in the basement is impeding access to the furnace which is a fire hazard.
4. The person occupying the basement area is smoking in the basement, contrary to the tenancy agreement, and the basement is very cluttered and dirty. Items in the basement include drugs and drug paraphernalia.
5. The occupants are using and bringing drugs into the rental unit and drug sales are suspected given reports from the neighbours that people come and go to/ from the rental unit at all hours of the night and leaving after only 10 minutes. Also, the landlord himself was asked if he was there to buy drugs when he went to the property to collect rent. The landlord found what appeared to be illicit drugs on the property and took them to police. The drugs are suspected of being crystal meth.
6. Occupants of the rental unit fight with each other and women have run to the neighbour's house covered in blood.

7. The police have been called to the property by neighbours on a number of occasions. The police have indicated that the property is known to them in the property crimes and drug enforcement branches of the police department.

The landlord's agent described how the landlord and/or agent have been to the property many times since the tenancy started as the tenants were paying rent in small increments and the property condition has gotten worse each time they went. deteriorate.

The landlord provided photographs of the interior and exterior of the property, taken on April 17, 2023, as evidence for this proceeding.

Analysis

Under section 56 of the Act, the Director, as delegated to an Arbitrator, may order the tenancy ended earlier than if the landlord had issued a One Month Notice to End Tenancy for Cause ("One 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 One 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 more urgent and severe circumstances and are processed as an "expedited hearing".

Based on the unopposed submissions and evidence before me, I find I am satisfied this tenancy should end early and the landlord should be provided an Order of Possession under action 56 of the Act. I make this finding upon review of the photographs which I find to be consistent with the testimony of the landlord's agent. The photographs demonstrate there is hoarding and garbage being piled in the house and on the exterior

of the house. It is also evident that alterations have been made to the electrical system and locked doors installed where doors did not previously exist which impacts ingress and egress. I further accept that there has been fighting, drug use and suspected drug sales taking place at the property. As such, I find the property and the health and safety of persons on the property are at significant risk of serious harm should this tenancy continue.

Considering the property has deteriorated so quickly in a relatively short period of time since this tenancy began, I am further satisfied that to expect the landlord to wait for a One Month Notice to take effect would cause undue risk to the landlord's lawful rights, the occupants, and the property. Therefore, I grant the landlord's application.

Provided to the landlord with this decision is an Order of Possession effective two days (2) days after service.

I award the landlord recovery of the filing fee, as requested. The landlord is authorized to recover this award by deducting \$100.00 from the tenant's security deposit.

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.

The landlord is provided an Order of Possession effective two days (2) days after service.

The landlord is authorized to deduct \$100.00 from the tenant's security deposit to recover the filing fee paid for this application.

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: May 03, 2023

Residential Tenancy Branch