



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes **ET FFL**

Introduction

This hearing was convened by conference call as a result of the Landlord's application for dispute resolution ("Application") under the *Residential Tenancy Act* (Act). The Landlord seeks:

- an early termination of the tenancy and an Order of Possession pursuant to section 56.

The Landlord's agents ("LM, CC and CB) and the Tenant attended the hearing. I explained the hearing process to the parties who did not have questions when asked. I told the parties they were not allowed to record the hearing pursuant to the *Residential Tenancy Branch Rules of Procedure*. The parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. A witness (AB) attended the hearing to provide testimony on behalf of the Landlord.

LM stated the Landlord served the Notice of Dispute Resolution Proceeding and its evidence (NDRP Package) on the Tenant in-person on May 10, 2023. The Tenant acknowledged she received the NDRP Package. As such, I find the NDRP Package was served on the Tenant pursuant to the provisions of sections 88 and 89 of the Act.

The Tenant stated she did not serve any evidence on the Landlord for this proceeding.

Issue to be Decided

Is the Landlord entitled to:

- an early end to the tenancy and Order of Possession pursuant to section 56 of the Act?
- authorization to recover the filing fee for the Application from the Tenant?

Background and Evidence

While I have turned my mind to all the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of the Application and my findings are set out below.

The Landlord submitted into evidence a copy of a tenancy agreement between the Landlord and Tenant. The parties agreed the tenancy commenced on March 1, 2023, on a month-to-month basis, with economic rent of \$1,094.00 of which the Tenant is responsible for paying \$511.00 on the 1st day of each month. The Tenant was required to pay a security deposit of \$450.00. LM acknowledged the Tenant paid the security deposit and that the Landlord is holding it in trust for the Tenant. LM stated the Tenant only paid \$234.00 toward the rent owing for May 2023.

Paragraph 2 of the tenancy agreement states:

22. Pets

The tenant may NOT keep pets on the residential premises. Excluded from this clause are: seeing eye or disabled assistance working dogs as required by disabled persons and their family doctor and only in accordance with the pet ownership rules included in the rules and regulations delivered with this tenancy agreement, as may amended from time to time.

In the Application, LM stated the Tenant, contrary to paragraph 22 of the tenancy agreement, has brought a dog into the rental unit. LM referred to a text message the Landlord received around April 29 or 30, 2023 from another occupant of the residential property. In that text, the occupant stated a teenage visitor had been bitten by the Tenant's dog. LM stated the parents of the teenager later advised they were not going to take any further action respecting the dog bite against the Tenant.

AB stated she was with her 2 year old child in the parking lot of the residential premises on the day the Tenant was moving into the rental unit. AB stated the Tenant's dog lunged at her child. AB stated she had an instant of panic, quickly placed her child in her car and closed the door to protect her from the dog. AB admitted the dog did not actually bite the child. AB stated that, at a later date, she saw the Tenant's daughter walking the dog in a grassy area of the residential property where children play. AB

stated that, at the time, the daughter was having difficulty holding the dog back and it was acting in an aggressive manner.

The Tenant denied the testimony of AB.

LM stated the Tenant's dog has seriously jeopardized the safety or a lawful right of other occupants of the residential property and that it was urgent that the tenancy be ended because of the aggressive nature of the dog and the potential for harm to residents and guests of residents in the residential property.

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 to prove their case is on the person making the claim. In this case, the onus is the Landlord to establish on a balance of probabilities that it is entitled to an order for an early end of the tenancy.

The conditions that must be met for a tenancy to be ended early are set out in subsections 56(2) and (3) as follows:

Application for order ending tenancy early

- 56(2) The director may make an order specifying the date on which the tenancy ends and the effective date of the order of possession only if satisfied that
- (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 in italics added]

Although AG provided testimony that the Tenant's dog lunged at her child, there is no evidence the child was injured. Although LM stated a teenager had been bitten by the dog, there was no testimony from someone who witnessed the incident. As such, I find that the Landlord has failed to prove, on a balance of probabilities, that there has been a breach of the subsections listed in 56(2) of the Act.

Based on the foregoing, I find the Landlord has not proven, on a balance of probabilities, that it is entitled to an early end to the tenancy for a cause listed in section 56(2) of the Act. As such, it is unnecessary for me to determine whether it would be unreasonable or unfair to the Landlord and other occupants of the residential property to wait for the Landlord to serve a notice to end tenancy to take effect pursuant to section 47 of the Act. I dismiss the Application without leave to reapply.

Conclusion

The Application is dismissed without leave to reapply.

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 23, 2023

Residential Tenancy Branch