



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession for an early end to the tenancy pursuant to section 56.

The hearing was conducted by conference call. The tenants did not attend this hearing, although I waited until 9:50 a.m. in order to enable the tenants to connect with this teleconference hearing scheduled for 9:30 a.m. The landlords attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions.

The landlord B.L. testified that on August 17, 2023, she personally served a copy of the Application for Dispute Resolution and Notice of Hearing to the tenant C.S. The landlord J.L. was a witness to the service.

Based on the above evidence, I am satisfied that the tenants were served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to section 89 of the Act. The hearing proceeded in the absence of the tenants.

Issues

Is the landlord entitled to an order of possession for an early end to the tenancy?

Background & Evidence

This tenancy began on December 31, 2021.

In the application, the landlords submit as follows :

- At the beginning of June , the Police, ambulance and Fire Department was called to premises at midnight by other tenants because of a fight between

the couple and smoke coming from the building which escalated into a rampage. They wanted to burn the building down. They set fires on both floors which the Fire Dept had to put out. The two tenants caused a lot of damage on both floors. doors walls and ceilings. RCMP File # 23-18774. The other tenants in the building are scared and very upset.

In the hearing, the landlords clarified that the incident occurred on May 31, 2023. The tenant J.D. was acting erratically when the fire department arrived and police had to be called before they could attend to the fire. J.D. was arrested. One of the other tenants in the building had to help contain the fire before the fire department arrived as the tenants themselves were not doing anything to stop the fire from spreading.

They talked to the tenant C.S. after the incident and she agreed to move. They gave her a couple weeks to find other accommodation. She did not end up moving.

J.D. has since been let out of jail and other tenants have seen him in the area and together again with C.S. The other tenants are afraid of another incident occurring and are threatening to move if action is not taken by the landlord to evict the tenants.

The landlord has not served any One Month Notice to End Tenancy for Cause to the tenants. The landlord stated they waited until August 8, 2023 to file this application as they were giving the tenant C.S. time to move out. She kept saying she would move but did not.

Analysis

In accordance with section 56 of the Act, in receipt of a landlord's application to end a tenancy early and obtain an order of possession, an arbitrator may grant the application where the tenant or a person permitted on the property by the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health and safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property in significant risk;
- engaged in illegal activity that:
 - has caused or is likely to cause damage to the landlord's property;

- 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
- has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property.

In addition to showing at least one of the above-noted causes, **the landlord must also show why it would be unreasonable or unfair to the landlord to wait for a One Month Notice for cause to take effect.**

Without making a finding on whether or not the landlord has cause to end this tenancy on any of the above grounds, I find that the landlord has not provided sufficient evidence to meet the latter part of the above test.

An application for an early end to tenancy is an exceptional measure taken only when a landlord can show that it would be unreasonable or unfair to the landlord or the other occupants to allow a tenancy to continue until a notice to end tenancy for cause can take effect. I find that had the landlord filed this application within a reasonable time after the incident of May 31, 2023, there is little doubt the landlord would have been successful in demonstrating that it would not be fair for the landlord to wait for a One Month Notice to take effect. However, the landlord took no action immediately after the incident, and now over two months after the fact is seeking to immediately end the tenancy without any Notice to the tenants. Since the landlord has already permitted the tenancy to continue for over two months after the incident, I find that it would not be unreasonable or unfair to the landlord to wait for a One Month Notice for cause to take effect. I make this finding as there is also not any evidence of another incident or threat of another incident aside from other tenants “seeing” the tenant J.D. back in the area.

Accordingly, I dismiss the landlord’s application for an early end to the tenancy.

Conclusion

The landlords’ 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 *Residential Tenancy Act*.

Dated: August 25, 2023

Residential Tenancy Branch