



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

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

- an early end to this tenancy and an Order of Possession pursuant to section 56; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I left the teleconference line open until 1:52 p.m. in order to enable the tenant to connect with this teleconference hearing scheduled for 1:30 p.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord gave sworn testimony that he posted a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenant's bedroom door on October 2, 2017.

The landlord gave sworn testimony that he sent the tenant a copy of the dispute resolution hearing package and written evidence package by registered mail on October 26, 2017. He provided copies of the Canada Post Tracking Number to confirm this registered mailing. He testified that the tenant picked up the hearing package and written evidence package on October 27, 2017. I find that the tenant was deemed served with the dispute resolution hearing package and written evidence package in accordance with sections 88, 89 and 90 of the *Act* on October 31, 2017, the fifth day after their registered mailing.

Issues(s) to be Decided

Is the landlord entitled to an early end to this tenancy and an Order of Possession?
Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord testified that this six-month fixed term tenancy began by way of a written tenancy agreement on July 1, 2017. The tenant lives in the lower level suite, below the landlord's residence. The landlord gave undisputed sworn testimony that monthly rent is set at \$700.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$350.00 security deposit paid on July 1, 2017.

The landlord testified that he applied for an early end to this tenancy because the tenant has not paid rent for September, October or November 2017. He said that this was the sole reason for his application for an early end to this tenancy. He said that the tenant did move his bed out of the rental unit, but some of the tenant's possessions remain in the rental unit. He said that he did not realize until after he submitted this application that there were other mechanisms available to him to obtain vacant possession of the rental unit.

Analysis

As discussed at the hearing, section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an end to a tenancy and the issuance of an Order of Possession on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 for a landlord's notice for cause. In order to end a tenancy early and issue an Order of Possession under section 56, I need to be satisfied that the tenant has done any of the following:

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

it would be unreasonable, or unfair to the landlord, the tenant 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.

In this case, the landlord has issued a 10 Day Notice, but has not issued a 1 Month Notice to End Tenancy for Cause, pursuant to section 47 of the *Act*.

As noted at the hearing and as outlined above, an early end to a tenancy cannot be secured for a failure to pay rent. In addition, failure to pay rent would not qualify as a reason where it would be unreasonable or unfair to the landlord to wait until an application to obtain an Order of Possession pursuant to section 47 of the *Act* could be obtained.

As I find no basis for the landlord's application for an early end to this tenancy pursuant to section 56 of the *Act*, I dismiss the landlord's application in its entirety.

Conclusion

I dismiss the landlord's application for an early end to tenancy and recovery of his application fee. This tenancy continues until ended in accordance with the *Act*.

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: November 16, 2017

Residential Tenancy Branch