



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession.

The Landlord attended the hearing and provided testimony. However, the Tenant did not appear. The Landlord stated that she sent the Notice of Hearing, and evidence by registered mail on March 4, 2021. This package was sent to the rental unit. Pursuant to section 88 and 90 of the Act, I find the Tenant is deemed to have received this package on March 9, 2021, the fifth day after its registered mailing.

The Landlord was provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

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

Background and Evidence

The Landlord stated that they became aware of a bed bug infestation in the Tenant's residence on October 8, 2020, when they attended and inspected the rental unit. The Landlord stated that the bed bug infestation was severe, and several nests were

discovered in the rental unit. The Landlord stated that they have a professional pest control company who routinely inspects units approximately every three months, on an ongoing basis. The Landlord explained that this is a subsidized rental building, with many older, vulnerable tenants, and the presence of bed bugs has a heightened impact on many of them. The Landlord explained that the pest control company came back on October 15, 2020, to treat the Tenant's bed bug problem. However, the Tenant had not adequately prepared his room prior to the planned treatment, which resulted in only half the unit being treated properly.

The Landlord stated that they provided clear instructions about how to prepare the unit for treatment, but it was ignored. The Landlord stated that since October 15, 2020, the Tenant has not allowed the Landlord into the rental unit, and has completely blocked any and all attempts to enter and treat the unit. More specifically, the Landlord stated that on November 13, 2020, they posted a notice on the Tenant's door for treatment to occur on November 20, 2020. The Landlord explained that when they attended the unit on November 20, 2020, the Tenant refused access.

The Landlord explained that they again posed a notice on the Tenant's door on November 20, 2020, for treatment on November 24, 2020. On November 24, 2020, the Tenant again refused access. The Landlord explained that they gave the Tenant a breach of tenancy letter on November 20, 2020. The Landlord explained that they issued another notice to enter for bedbug treatment on November 24, 2020, with a treatment date of November 27, 2020. The Landlord stated that the Tenant again refused access.

The Landlord stated that they have tried to offer the Tenant alternative space to stay in, while treatments occur, but he will not allow it. The Landlord further stated that as a precautionary measure, they have had to treat the adjacent units every 6-7 weeks, to prevent the spread of the bedbugs. The Landlord stated that this is ongoing, and continues to negatively impact the Tenants who live next to the Tenant because they have to prepare their belongings, and rental unit in a particular manner each time treatment is done. The Landlord stated that many of these individuals are seniors, and with COVID, it adds a lot of stress to their lives, all because the Tenant won't allow the Landlord to treat the source of the problem. The Landlord stated that the Tenant's bedbug infestation has been largely contained but they worry it will spread if not properly exterminated.

The Landlord stated that they have also issued a 1-Month Notice to End Tenancy for Cause, and have an upcoming hearing for that matter in June of 2021.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy for Cause to take effect, under one of the following grounds:

(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

Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end due to one of the above noted grounds, and the Landlord must also prove that it is unreasonable or unfair for them to wait for a Notice issued under those grounds to take effect.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution. Applications to end a tenancy early are for very serious breaches only and require sufficient supporting evidence.

I have carefully considered the evidence before me. I accept that there is likely an ongoing bedbug problem in the Tenant's rental unit which requires extermination. This was discovered nearly 5 months ago, and the Tenant has been obstructive and resistant to proper extermination attempts. This has caused the Landlord to do pro-active treatments in neighbouring units, to prevent the bed bugs from migrating. This appears to be largely successful, given the lack of evidence showing other units have been infested. However, I accept that the pro-active treatments (every 6-7 weeks) do have a deleterious impact on the quiet enjoyment of the individuals in the neighbouring units. Even though there is likely some impact to neighbouring units including the worry about bed bugs, the preparation for treatments every 6-7 weeks, and concerns over access during COVID, I do not find this situation is immediate or severe enough such that it warrants as early end to the tenancy, pursuant to section 56 of the Act.

I dismiss the Landlord's application for an order of possession, as I do not find it meets the criteria for an early end to tenancy, as laid out above.

This decision has no bearing on whether or not the Landlord is entitled to an order of possession based off the 1-Month Notice to End Tenancy they have already issued. That matter will be adjudicated separately pursuant to section 47 and 55 of the Act. I have not made any findings on the merits of the 1-Month Notice already issued and my findings in this hearing only related to whether or not there are sufficient grounds to end the tenancy early.

Given the Landlord was not successful in this hearing, I decline to award her the recovery of the cost of the filing fee she paid to make this application.

Conclusion

The Landlord has not met the burden to prove the tenancy should end early. Therefore, the Landlord's Application is dismissed without leave to re-apply and the tenancy will continue until such time it is 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: March 30, 2021