



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the Landlord's Application filed under the *Residential Tenancy Act* (the "Act") for an early end of tenancy pursuant to section 56 of the *Act*. The matter was set for a conference call.

The Landlord attended the hearing and was affirmed to be truthful in their testimony. As the Tenants did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified the Application for Dispute Resolution and Notice of Hearing had been served to the Tenants by registered mail sent on May 13, 2021; two Canada post tracking numbers were provided as evidence of service. I find that the Tenants had been duly served in accordance with sections 89 and 90 of the *Act*.

The Landlord was provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. The Landlord was advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

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.

Preliminary Matter – *Landlord Unprepared*

During these proceedings, Landlord provided general statements regarding the history of this tenancy and the details of their claim. The Landlord was prompted five times to

provide accurate and concise testimony regarding the events in this tenancy that lead them to submit an application pursuant to section 56 of the *Act*.

The Landlord was provided with additional time to arrange their notes, their testimony and to call witnesses during these proceedings. However, the Landlord remained unable or unwilling to accurately testify to details of events or to present their documentary evidence to this Arbitrator.

The Landlord was reminded twice of section 3.7 and 7.4 of the Rules of Procedure, that requires that all evidence must be organized, presented, and easily reference during a hearing. However, even though this Landlord submitted 43 documents in their evidence package, they only spoke to three documents during their verbal testimony and were unable to direct this Arbitrator to where to find these three documents in their evidence package.

Throughout these proceedings, the Landlord repeatedly demonstrated unfamiliarity with the *Residential Tenancy Act* and the Residential Tenancy Branches Rules of Procedure. The Landlord repeatedly asked this Arbitrator to provide them with personal guidance in how to present and prove their claim. Arbitrators are impartial decision-makers, and it is outside of an arbitrator's role to act as an advocate for either Applicant or Respondent during a legal proceeding. The Landlord was provided with general guidance on the Rules of Procedure and section of the *Act* during these proceedings; however, the Landlord's requests for personal assistance in presenting their case was inappropriate and was refused by this Arbitrator. The Landlord was strongly encouraged to seek out the assistance of legal counsel or a legal advocate.

Overall, I find that the Landlord was unprepared to present their case and showed a lack of understanding of what they had applied in these proceedings.

Preliminary Matter – *Landlord's Conduct/Cautioned*

During the hearing, the Landlord was cautioned several times regarding personal conduct towards this Arbitrator. The Landlord was advised of the expected appropriate conduct during these proceedings, no less than three times, and cautioned that further outbursts could result in their removal of these proceedings.

The Landlord was also cautioned regarding their repeated interruption of their witness's testimony during these proceedings; the Landlord was provided with two warnings to stop interrupting the witness testimony. However, at 10:10, when the Landlord

interrupted their witness's testimony again, the Landlord's phone line was muted for five minutes in order to allow the witness to complete their testimony. The Landlord was invited back to the proceeding once the witness was finished.

Additionally, when this Arbitrator attempted to deliver their final decision, verbally, for this case, the Landlord interrupted by speaking loudly over top of this Arbitrator, advising this Arbitrator that they would be filing a complaint against them.

This Arbitrator provided the Landlord with the available next steps, including Review Consideration, Judicial Review, and the Residential Tenancy Branch Contact information.

This Arbitrator ended these proceedings by repeating their final decision on the Landlord's application and disconnecting all parties from these proceedings.

Issue to be Decided

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

Background and Evidence

While I have considered all of 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 Landlord testified that the Tenants have moved additional people into the rental unit without the consent of the Landlord, that the Tenants have a large portion of outstanding rent due for this tenancy and that they are repeatedly late in making their rent payments.

The Landlord testified that on February 22, 2021, one of the Tenants got into a fight with one of their guests. The Landlord testified that the police attended the rental unit for this event and that the police removed the Tenants' guests from the rental unit. The Landlord provided a police incident number into evidence for this event.

The Landlord's witness, whose name is recorded on the style of cause page of this decision, and who was affirmed to be truthful in their testimony, testified that these Tenants were outstanding in their rent, that they had moved additional people into the

rental unit without the Landlord's consent and that they Tenants were very mouthy to the Landlord and the witness when they tried to speak to them.

The Landlord testified that on April 30, 2021, one of the people that the Tenants had moved into the rental unit without the Landlord's consent had threatened the Landlord witness. The Landlord provided a police incident number into evidence for this event, confirming that this event was an open file with the police but that no charges had been brought against this individual.

The Witness testified that a person who the Tenants had allowed to move into the rental unit had threatened to come to their home and fight them.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

An application for an early end of tenancy is an exceptional measure, to be taken only when a landlord can show that it would be unreasonable or unfair for the landlord or other occupants to allow the tenancy to continue until a notice to end tenancy for cause can take effect or be considered by way of an application for dispute resolution.

Section 56 of the *Act* establishes the grounds whereby a landlord may make an application for dispute resolution to request an Early End to Tenancy and 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 of the *Act* for a landlord's notice for cause.

In order to end a tenancy early and issue an Order of Possession under section 56, a landlord has the burden of proving that:

- There is sufficient cause to end the tenancy such as; unreasonably disturbed another occupant, seriously jeopardized the health, or safety, or a lawful right, or interest of the landlord, engaged in illegal activity, or put the landlord's property at significant risk; **and**
- That it would be unreasonable or unfair to the landlord or other occupants to wait for a one-month notice to end tenancy for cause under section 47 of the *Act* to take effect.

In this case, while the Tenants conduct may have been disturbing to others, I find the circumstance of this case are not so significant or severe that it would have been unreasonable for the Landlord to have to wait for a One Month Notice to take effect if there was sufficient cause to end the tenancy. Therefore, I find that the Landlord has fallen short of the standard required to obtain an early end of tenancy under section 56 of the *Act*.

Therefore, I dismiss the Landlord's application for an early end of tenancy under section 56 of the *Act*, as I find it neither unreasonable nor unfair that the Landlord would need to wait for a One Month Notice to take effect and for the required hearing process under that notice.

Conclusion

I dismiss the Landlord's application for an early end of tenancy. 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: June 10, 2021

Residential Tenancy Branch