



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was convened as a result of the Landlord's Application for Dispute Resolution, made on August 25, 2021 (the "Application"). The Landlord applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order of possession to end a tenancy early for immediate and severe risk; and
- a monetary order granting the recovery of the filing fee.

The Landlords and the Tenant attended the hearing at the appointed date and time. At the start of the hearing, the parties confirmed service and receipt of their respective Application and documentary evidence packages. As such, I find these documents were sufficiently served pursuant to Section 71 of the *Act*.

Issue(s) to be Decided

1. Are the Landlords entitled to an order of possession for early termination, pursuant to Section 56 of the *Act*?
2. Are the Landlords entitled to recover the filing fee, pursuant to Section 72 of the *Act*?
- 3.

Background and Evidence

The parties testified and agreed to the following: the tenancy began on February 15, 2018. The Tenant is required to pay rent in the amount of \$1,027.20 which is due on the first day of each month. The Tenant paid a security deposit in the amount of \$500.00 which the Landlords continue to hold. The Tenant continues to occupy the rental unit.

The Landlords are seeking to end the tenancy early based on the fact that the Tenant poses immediate and severe risk to the rental property and other occupants. The Landlord stated that the Tenant has brought home an unfavourable guest, who has a criminal record. The Tenant has brought other dangerous people which has created fear amongst the other occupants, Landlords, and neighbours. The Landlords stated that the Tenant has put broom handle holes in the ceiling and that she smokes on the property. Lastly, the Landlords stated that the Tenant is known to drive recklessly which concerns the neighbours. The Landlords referred to a petition signed by the neighbours in support.

The Tenant responded by stating “what happened, happened” and that things are “looking up now”. The Tenant stated that she had been experiencing issues with the occupants who lived in the upper rental unit, however, they have since moved out and the Tenant is now getting along with the new occupants. The Tenant stated that she no longer has a vehicle, and that there have been no problems as of late.

Analysis

Based on the documentary evidence and oral testimony, and on a balance of probabilities, I find:

Section 56 of the *Act* permits a landlord to end a tenancy 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*. The circumstances which permit an arbitrator to make these orders are enumerated in section 56(2) of the *Act*, which states:

The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied...

- (a) The tenant or a person permitted on the residential property by the tenant had 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 landlords 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.

The causes for ending the tenancy early, as listed above, are identical to the causes for which a Landlord can end a tenancy by serving a One Month Notice to End Tenancy for Cause. The difference between this process and a determination on whether the Landlord has the grounds to end the tenancy for cause is that when a Landlord seeks to end the tenancy earlier than would occur had a One Month Notice to End Tenancy for Cause been served, the Landlord must also prove that it would be unreasonable or unfair to the Landlord or other occupants to wait for the One Month Notice to End Tenancy for Cause to take effect. In other words, the situation created by the Tenant must be extreme and require immediate action.

In this case, the Landlords have applied for an order of possession to end the tenancy early based on immediate and severe risk. During the hearing, the Landlords indicated that the reason for seeking an order of possession was in relation to ongoing concerns regarding; unfavourable guests, damage to the ceiling, driving concerns, and smoking on the property.

Based on the testimony and evidence before me, I am not satisfied that the situation is so urgent that it should end earlier than a One Month Notice to End Tenancy for Cause would normally take effect. I find that the Landlords failed to provide sufficient evidence that this tenancy should end pursuant to Section 56 of the Act.

In light of the above, I dismiss the Landlords' Application, without leave to reapply. As the Landlords were not successful with their Application, the Landlords are not entitled to recover the filing fee from the Tenant.

Conclusion

The Landlords have provided insufficient evidence to prove the tenancy should end early based on immediate and severe risk, pursuant to Section 56. The tenancy will continue 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: October 04, 2021

Residential Tenancy Branch