



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Devon Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's application for dispute resolution (application) under the Residential Tenancy Act (Act) for:

- an order of possession of the rental unit pursuant to section 56 of the Act because the tenant poses an immediate and severe risk to the rental property, other occupants, or the landlord; and
- recovery of the filing fee.

The landlord's agent (agent) attended the teleconference hearing; however, the tenants did not attend.

As the tenants did not attend the hearing, service of the Application for Dispute Resolution, evidence, and Notice of Hearing (application package) was considered.

The landlord filed the Canada Post receipts and tracking numbers proving they served each tenant with the application package by registered mail on May 31, 2022, to their home address and a search of the Canada Post system indicated that one of the tenants collected the registered mail.

I accept the landlord's undisputed evidence and find that the tenants were served notice of this hearing in a manner complying with section 89(1)(c) of the Act. The hearing proceeded in the tenants' absences.

The agent was provided the opportunity to present their affirmed testimony, to refer to their documentary evidence, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the RTB Rules. However, not all details of the submissions and or arguments are reproduced here; further, only the evidence specifically referenced and 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 this tenancy early without the requirement of a One Month Notice to End Tenancy?

Is the landlord entitled to an Order of Possession of the rental unit and recovery of the filing fee?

Background and Evidence

The tenancy started on June 1, 2017. The rental unit is in a multi-unit apartment building.

In support of their application, the agent submitted documentary and photographic evidence, verified at the hearing, containing the allegations against the tenants, or one of the tenants. The landlord submitted an email received from the girlfriend/occupant of a tenant in an adjoining rental unit (adjoining tenant). The landlord was informed that the adjoining tenant was in the back parking lot “when the people from (rental unit #) attacked him again.” The email further stated that the tenants stole the adjoining tenant’s vape and tried to steal his phone.

Attached to the email were photos of the adjoining tenant after the assault, showing a swollen and bloodied lip, a bloodied nose, and facial injuries.

The agent testified that the adjoining tenant was physically attacked by the tenants, or one of the tenants, in March 2022, but as they were not sure whether the attack was provoked or not, they did not file for an order ending the tenancy earlier. Instead, they issued the tenants a One Month Notice to End Tenancy for Cause (Notice).

The agent also submitted evidence of reports made in March 2022, about the tenants’ violent behaviour and property damage, use of bear spray in the hallways, drug dealing, and police call-outs.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 56 of the Act applies and states:

Application for order ending tenancy early

56(1) A landlord may make an application for dispute resolution to request an order

(a) ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) 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, in the case of a landlord's application,

(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, 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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

In order to establish grounds to end the tenancy early under section 56 of the Act, the landlord must not only establish that they have cause to end the tenancy, but that it would be unreasonable or unfair to require the landlords to wait for a notice to end the tenancy under section 47 of the Act to take effect. Having reviewed the undisputed testimony of the landlord, I find that the landlord has met that burden.

I find the landlord submitted sufficient and undisputed evidence that the tenant physically assaulted another occupant of the residential property and that the assault was unprovoked. I also find that the other occupant sustained serious bodily harm.

I therefore find the landlord submitted sufficient evidence that the tenants seriously jeopardized the health or safety or a lawful right or interest of another occupant.

Due to the above, I am also satisfied that it would be unreasonable and unfair to the landlord to wait for a 1 Month Notice to End Tenancy to take effect.

I therefore grant the landlord's application to end this tenancy early.

Therefore, pursuant to section 56 of the Act, I grant the landlord an order of possession for the rental unit effective not later than **two (2) days** after service on the tenants. I order the tenancy ended the date of this hearing, June 27, 2022, pursuant to sections 56 and 62(3) of the Act.

I grant the landlord recovery of their filing fee of \$100.

Conclusion

The landlord's application is successful.

I ordered the tenancy ended this date, June 27, 2022.

The landlord is granted an order of possession effective two (2) days after service on the tenants.

If it becomes necessary for the landlord to enforce the order of possession of the rental unit, **the tenants are cautioned that they may be liable for bailiff costs.**

The landlord is granted a monetary order of \$100 for recovery of their filing fee.

I authorize the landlord to deduct \$100 from the tenants' security deposit, if they choose to redeem their monetary award in that manner. If so, the monetary order is of no force or effect.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: June 27, 2022

Residential Tenancy Branch