



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: ET

Introduction

This hearing dealt with an application by the landlord seeking to end the tenancy early and an order of possession.

Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Background and Evidence

The tenancy began on March 1, 2007. In June 2008 the tenant applied for dispute resolution, seeking orders to suspend the landlord's right to enter the rental unit and authorizing the tenant to change the locks. In that matter, the landlord and tenant were able to reach a settlement agreement and the tenant withdrew his application.

The submissions of the landlord were as follows. The landlord started having problems with the tenant shortly after he moved in. The tenant often had loud parties, and there has been a strong smell of marijuana in the hallway on several occasions. On one occasion the tenant's guests threw cigarette butts off the balcony. The landlord has had problems with the tenant over the issue of parking. The tenant has shouted at the landlord in the hallway. On an inspection of the rental unit the landlord became concerned with leaking in the bathroom that the tenant had not reported and he was also not satisfied with the state of cleanliness of the kitchen stove. The tenant has put nails into the exterior door of his apartment and it looks like a dartboard.

The testimony of the building manager was that on November 10, 2008 she posted on the door of the rental unit a 24 hour notice of inspection. On November 11, 2008 at approximately 6:00 pm, the landlord and building manager attended at the rental unit and knocked on the door, but they received no response. The landlord asked another tenant to accompany them as a witness, and they knocked on the door again with no response. The landlord entered the rental unit and began to call out. The tenant was in the living room, and he shouted at the landlord to get the fuck out, grabbed the landlord and threw him out. The landlord was not physically injured but he is now concerned about an escalation of violence.

The response of the tenant was as follows. In regard to the landlord's submissions on previous problems, the landlord is exaggerating and inaccurate. There is sometimes a smell of marijuana in the hallways, but it is coming from several other apartments, not the tenant's apartment. The tenant has always dealt with problems with his guests as soon as it comes to his attention, including the one incident with the cigarette butts. The tenant has never put nails in his door, there was a nail left there by a previous tenant and the tenant has only put four tacks in the door to put a poster on his door. The tenant received the notice of inspection on November 10, 2008 but he did not feel that the landlord had cause to do an inspection. On November 11, 2008 the tenant had worked from 5 am to 4 pm, and when he came home he fell asleep on the couch. He was woken by the landlord, the building manager and another tenant entering his apartment. The tenant was angry because he had had previous problems with the landlord entering his apartment without permission. He did not swear but told the landlord to get out, and the landlord would not leave. The tenant grabbed the landlord by the sweater and walked the landlord to the door. At the door, the landlord attempted to pull out a camera, and the tenant at that point told the landlord to fuck off and he slammed the door.

The landlord's response to the tenant's testimony was that the tenant was lying. The landlord stated that he had given the tenant at least 72 hours' notice before conducting the inspection, and if the landlord did not get an order of possession he was going to "arm himself" because he "has the right to act in self-defense."

Analysis

I find that I prefer the evidence of the tenant in this matter as more credible. I find that the landlord generally exaggerated his concerns regarding the tenant and specifically contradicted the evidence of the building manager regarding the time that the notice of inspection was posted. I found the landlord's comments regarding his right to act in self-defense to be particularly troubling and unfounded. I advised the landlord that if he has genuine concerns for his safety he ought to call the police. The landlord has not provided sufficient evidence to warrant an early end to tenancy.

Conclusion

The landlord is not entitled to an order of possession. I dismiss the landlord's application, with the effect that the tenancy continues.

Dated: November 19, 2008.