



Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: ET & FF

Introduction:

This hearing dealt with the landlord's request to end this tenancy early pursuant to section 56 of the *Act*. Although the tenant was served both in person and by registered mail on February 12, 2008 with notice of this hearing, he did not appear.

I proceeded with the hearing in the tenant's absence being satisfied that the tenant was served in accordance with section 89 of the *Act*.

Issue to be Determined:

Should this tenancy be ended early pursuant to section 56 of the *Act*?

Background and Evidence:

The landlord seeks to end this tenancy early due to the tenant's unacceptable and disturbing behaviours since the tenancy began. The landlord provided a copy of one letter from other occupant which described the tenant has being violent and harassing. The occupant goes on to describe that she is scared due to the tenant yelling, screaming and smashing things in his rental unit. The landlord provided another letter from another occupant indicating that they would be vacating. However, there is no explanation provided as to the reason behind the decision to vacate.

The landlord confirmed the problems outlined in the witness letter and indicated that the tenant is causing many occupants to consider vacating. However, the landlord did not provide any evidence that he has given the tenant any warning letters to correct the disturbances.

The landlord stated that the tenant has indicated that he would be vacating and also provided a letter apparently signed by the tenant indicating that he would be vacating effective February 28, 2009.

The landlord requests an Order of Possession.

Analysis:

I deny the landlord's application. Section 56 of the *Act* allows a tenancy to end early only in exceptional circumstances because it allows a tenancy to be ended without a one month Notice to End Tenancy being served.

Although the landlord has provided some evidence that the tenant is disturbing other occupants it is not sufficient to meet the strict requirement of section 56 of the *Act*. This section requires that the landlord show that it would be unfair and unreasonable for a one month Notice to End Tenancy to take effect. The landlord has not provide any evidence that he has provided written warnings to the tenant about the disturbances and I am satisfied that it is appropriate for the landlord to seek a remedy through service of a one month Notice to End Tenancy.

Conclusion:

I deny the landlord's request to end the tenancy early pursuant to section 56 of the *Act*. However, it does appear that the tenant has agreed to a mutual end to the tenancy and will be vacating.

Dated February 19, 2009.

Dispute Resolution Officer