

Dispute Resolution Services

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

DECISION AND REASONS

Dispute Codes: *ET*

Introduction

This was an application by the landlord pursuant to section 56 of the *Residential Tenancy Act*, for an order to end the tenancy early and obtain an order of possession.

The notice of hearing dated April 21, 2009 was served on the tenant in person, on April 24, 2009. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Does the landlord have cause to end the tenancy early?

Background and Evidence

The landlord stated that the tenant paid partial or no rent for November 2008, January, March and May 2009. On April 21, 2009 the landlord served the tenant with a ten day notice to end tenancy for unpaid rent. The landlord is applying for an order of possession based on the notice to end tenancy for unpaid rent.

Analysis

Section 56 (2) of the Act permits me to make an order ending a tenancy earlier than the effective date on a notice to end tenancy, only if I am satisfied that the tenant has done one or more 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.

Section 56 is an extraordinary remedy that is reserved for situations in which there is a clear and present danger, or a genuine threat of imminent harm of such an extreme nature that it would warrant immediate intervention and removal of the tenant from the premises.

Based on the testimony of the landlord, I am not persuaded that it would be unreasonable or unfair for the landlord to wait while a ten day notice to end tenancy for unpaid rent takes effect.

While the landlord may have established cause to end the tenancy upon a ten day notice, the landlord has not established grounds for an extraordinary remedy such as ending the tenancy earlier than the effective date of a ten day notice to end tenancy.

Conclusion

Accordingly, based on the evidence as presented at this hearing, I find that the landlord is not entitled to an immediate Order of Possession under section 56, and hereby dismiss this application.

Dated May 29, 2009.

Dispute Resolution Officer