

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 an application by the landlord for an early end to tenancy.

Issues to be Decided

Does the landlord have cause to end the tenancy early?

Background and Evidence

The tenancy began on March 01, 2009. On May 07, 2009, the tenant and his common law spouse were involved in a police incident in which the tenant was stabbed and his common law spouse was taken into police custody. The landlord stated that there was considerable blood shed on the hallway carpet.

The landlord testified that on one prior occasion, the common law spouse was seen bringing items that were left in the dumpster, into the building. She was intoxicated and left some of the items in the hallway and took the others into her rental unit. The landlord also stated that the common law spouse frequently smoked in the public areas of the building and sometimes associated with other intoxicated individuals who caused noise disturbances inside the building.

The landlord filed letters of complaint from other occupants of the building which state that the bloodied hallway carpet needs to be replaced and that they fear for their safety after the stabbing incident that occurred on May 07, 2009.

The tenant testified that he was the victim of the incident and that he had never had any problems with the landlord or other tenants. He stated that his common law spouse is currently incarcerated and he has a no contact order. In addition, the common law spouse is prohibited from coming within two blocks of the tenant's residence.

Analysis

Section 56 (2) of the Act permits me to make an order ending a tenancy earlier than the effective date on the 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.

In addition to proving that there is cause to end the tenancy, in an application of this nature the landlord must clear a second hurdle. Under section 56(2)(b) of the Act, in order to establish a claim for an early end to tenancy, the landlord must establish that “it would be *unreasonable, or unfair* to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47” .

Based on the documentary evidence and testimony of the parties, I am not persuaded that it would be unreasonable or unfair for the landlord or other occupants of the residential property to wait while a one month notice to end tenancy takes effect.

While the landlord may have established cause to end the tenancy upon one month's notice, the landlord has not established grounds for an extraordinary remedy such as this. For the above reasons, I dismiss the landlord's application to end tenancy early.

Conclusion

I find that the landlord has not proven the landlord's claim and hence I dismiss the application. The landlord must bear the cost of filing this application.

Dated May 21, 2009.

Dispute Resolution Officer