



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

ET and FF

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession, for an early end to the tenancy, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Agent for the Landlord stated that she personally served copies of the Application for Dispute Resolution and Notice of Hearing on a female adult who she believes is residing in the rental unit. These documents are deemed to have been served in accordance with section 89(2)(c) of the *Residential Tenancy Act (Act)*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to end this tenancy early, to an Order of Possession and to recover the filing fee from the Tenant for the cost of the Application for Dispute Resolution, pursuant to sections 56 and 72 of the *Act*.

Background and Evidence

The Agent for the Landlord stated that this tenancy began on August 01, 2006 and was a good tenancy for the majority of that period. The Agent stated that the Tenant was injured at work in the latter portion of 2008 and that there have been problems with the tenancy since that time.

The Agent for the Landlord stated that there are now several people living at the rental unit, although she does not know the names of the occupants nor does she know how many are living there. She stated that she is having problems inspecting the entire rental unit as the Tenant keeps his bedroom locked; he is not present whenever she attempts to conduct an inspection; and the occupants claim they do not have a key to the bedroom. She stated that this is one of the reasons she is seeking an early end to the tenancy.

The Agent for the Landlord stated that she is also seeking an early end to this tenancy because the Tenant has not paid rent in six months.

Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and he may apply for an Order of Possession for the rental unit.

Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that 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
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 52(2)(b) of the *Act* authorizes me to grant an Order of Possession in these circumstances only if it would be unreasonable, or unfair to the landlord or other

Residential Tenancy Branch
Ministry of Housing and Social Development

occupants of the residential property, to wait for a notice to end the tenancy under section 47 of the *Act* to take effect.

After considering all of the oral and written evidence submitted I find that the Landlord has not satisfied the legislative requirements to end this tenancy early.

Although there is evidence to show that the Landlord may have grounds to end this tenancy for cause, pursuant to section 47 of the *Act*, and for unpaid rent, pursuant to section 46 of the *Act*, I find that it would not be unreasonable or unfair to the Landlord of other occupants of the residential property to wait for a notice to end the tenancy under section 47 of the *Act* to take effect. I find that there is insignificant evidence to establish that there is an urgent need to remove the Tenant and the occupants from this rental unit.

Conclusion

As the Landlord has not established grounds to end this tenancy early, pursuant to section 56 of the *Act*, I hereby dismiss the Landlord's application to end the tenancy early and for an Order of Possession.

As the Landlord's application has been without merit, I hereby dismiss the application for compensation to recover the filing fee for the cost of this Application for Dispute Resolution.

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*.

Dated: July 15, 2009.

Dispute Resolution Officer