

DECISION

Dispute Codes ET FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to End the Tenancy Early and obtain an Order of Possession and to recover the cost of the filing fee from the Tenant for this application.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89 of the *Act*, served personally by the Regional Property Manager, in the presence of the Resident Maintenance Manager, to the Tenant at the rental unit on June 30, 2009 at approximately 4:00 p.m.

The Landlord appeared, was provided the opportunity to present his evidence orally, in writing, and in documentary form.

The Tenant did not appear despite being served with notice of today's hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Is the Landlord entitled to an Order of Possession and a Monetary Order under sections 56, 67, and 72 of the *Residential Tenancy Act*?

Background and Evidence

The fixed term tenancy began on March 1, 2009 and is scheduled to expire on February 28, 2010. Rent is payable on the first of each month in the amount of \$1,300.00 and the

Tenant paid a security deposit of \$650.00 on February 12, 2009. There were no rent arrears at the time the Landlord filed his application.

The Landlord testified that within the first month that the Tenant occupied the rental unit the Landlord received telephone calls from the Tenant's neighbours complaining about the Tenant's drinking, fighting, and driving while drunk. The Landlord argued that the Tenant was spoken too and issued a written notice on April 1, 2009 and that the Tenant responded by telling the Landlord the problem was a result of the Tenant's Cousin visiting and that his Cousin has now left so there will be no further problems. The Landlord stated that this was not the case.

The Landlord testified that the Tenant's drinking is a daily event and is causing the neighbours grave concerns as this Tenant carries on outside once he is drunk and has been drinking and driving into the complex where their children are outside playing.

The Landlord testified to the four written complaints received by neighbours which refer to numerous instances where the RCMP have been called and where the neighbours have witnessed the police removing the Tenant from his vehicle and home and being arrested. The Landlord argued that the police are being called on a regular basis and that the Tenant is involved in intoxicated fighting and arguing with his guests on a daily basis.

The Landlord argued that he is very concerned for the safety of the other Tenants and their children, especially because this Tenant is drinking on a daily basis, he continually drinks and drives in and out of the complex where children are playing, and that despite being issued verbal and written warnings and being arrested several times by the police, the Tenant does not stop. The Landlord advised that this situation is severe enough that they did not want to proceed with a 1 Month Notice to End Tenancy for Cause as they need to try and have this Tenant removed as soon as possible for the safety of the other tenants.

Analysis

Given the evidence before me, in the absence of any evidence from the Tenant who did not appear despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Landlord and corroborated by their witness statements.

Section 56 of the *Residential Tenancy Act* states that a landlord may make an application for dispute resolution to request an order to end a tenancy early and to grant the landlord an order of possession if the director is satisfied that 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 and seriously jeopardized the health or safety or lawful right or interest of another occupant or the landlord.

Order of Possession - Based on the testimony and evidence before me I find that the Landlord has proven the merits of his application to end the tenancy early and obtain an order of possession under Section 56 of the *Residential Tenancy Act*.

Filing fee - \$50.00. I find that the Landlord has succeeded in large and that he should recover the filing fee from the Tenant.

Monetary Order – I find that the Landlord is entitled to recover the filing fee from the Tenant and that this claim meets the criteria under section 72(2)(b) of the *Act* to be offset against the Tenant's security deposit plus interest.

Filing fee	50.00
Sub total (Monetary Order in favor of the landlord)	\$50.00
Less Security Deposit of \$650.00 plus interest of \$0.00	- 650.00
Balance of Security Deposit and Interest	\$600.00

The balance of the Tenant's security deposit is to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This order must be served on the Respondent Tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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 30, 2009.

Dispute Resolution Officer