

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 pursuant to section 56 of the *Residential Tenancy Act*, for an order to end the tenancy early and obtain an order of possession. The landlord also applied for the filing fee. Both parties attended the hearing and were 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 tenant rented the basement suite of the home, since January 2007. The current landlord purchased the home in October 2007 and took over the existing tenancy. The monthly rent is \$525.00 and includes cable television.

On June 15, 2009, the landlord served the tenant with a notice to end tenancy for cause. The landlord stated that the reasons for the eviction notice are that tenant is repeatedly late paying rent, causes excessive noise disturbances and has removed the smoke detector.

The landlord stated that on June 17, 2009, the tenant hosted a party which resulted in the guests and/or the tenant causing damage to the walls. The landlord gave the tenant a 24 hour notice to inspect the suite and did so on June 24, 2009. The landlord has submitted photographs of the damage to the drywall and the missing smoke detector. The landlord stated that since then, the tenant has had another party on July 01, 2009 and she suspects that there may be additional damage to the rental unit.

The landlord stated that the tenant also told her that he intended damaging the rental unit, to the tune of thousands of dollars.

The tenant admitted that the walls were damaged on June 17, 2009. He stated that he left the party and upon his return, he found that his guests had caused the damage. The tenant also stated that this was a one time incident during the entire time of the tenancy, which started in January 2007. The tenant also agreed that he plays loud music, but always turned it down if asked to. The tenant has disputed the notice to end tenancy for cause and this matter is scheduled to be heard on July 22, 2009.

Analysis

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.

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 to wait while a one month notice to end tenancy takes effect. While the landlord may have 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

The landlord’s application is dismissed and she must bear the cost of filing this application.

Dated July 09, 2009.

Dispute Resolution Officer