



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlords for an early end to the tenancy and to obtain an Order of Possession.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*; they were given in person to the tenant on July 18, 2009. This was witnessed and the witness appeared at the hearing and gave affirmed testimony as to the service of the hearing documents. The tenant was deemed to be served the hearing documents on July 18, 2009.

The landlord appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form.

There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Has the landlord established that there are sufficient grounds to grant an early end to the tenancy?

Background and Evidence

This tenancy started on April 29, 2009. The tenant pays rent of \$500.00 which is due on the 1st of each month. The tenancy agreement is for the tenant but the landlord has also allowed the

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tenants boyfriend to reside at the rental unit with her. The landlords live on the main floor of the property and the basement is rented to the tenant. The landlords have given the tenant a verbal notice to end the tenancy and the tenant had agreed to leave the property by the end of July, 2009.

The landlord testifies that the tenants boyfriend smoke marijuana on the property and has caused damage to the rental property. The landlord also testifies that on July 12, 2009 they heard screaming from the basement. This was very loud and continuous. The landlords were concerned that someone needed assistance and the landlord went to the basement to ask if any help was needed or if they should call an ambulance. The tenants' boyfriend became very verbally threatening to the landlord, shouting and swearing at him.

The landlord left the basement and went back upstairs. The landlord testifies that he was followed up the stairs by the tenants' boyfriend who continued to threaten and swear at him. The tenants' boyfriend had picked up a rusted metal garden rod, came after the landlord up the stairs and threatened him with this. The landlords' wife told him not to talk to the tenants' boyfriend but to come inside the house. The tenants' boyfriend continued to taunt the landlord and challenged him to come out and fight. The landlords' wife in the meantime had called the police. The tenant's boyfriend came onto the landlords' sundeck and started banging the railings with the metal bar causing significant damage to them. The landlord has provided photographic evidence of the damage caused to the railings and of the metal bar used.

The landlord testifies that before the police came the tenants' boyfriend had left the premises and the police went to talk to the tenant to find where he had gone. The tenant told the police she did not know. The police told the landlords to contact them when the tenants' boyfriend came back. Some time later the boyfriend came back and the police came and spoke to him about the incident. The landlords have provided the police officers card and incident number in their evidence. The police advised the landlords to have no contact with the tenants. The police also advised the landlord that the verbal notice they had given the tenant to vacate the property was invalid and the tenants would not have to move out if they chose not to. The landlords were advised to contact the Residential Tenancy Branch.

Since this incident the landlords' wife testifies that they can hear the tenants' boyfriend in the basement unit making threats to burn the house down and the tenant and her boyfriend continue to fight. The landlord is too scared to remain in the house on her own and is extremely worried about what is happening with the house when she is away at work. They feel they are living in fear of the constant threat from the tenants' boyfriend. After seeking advice they applied to end the tenancy early on July 17, 2009 and request an Order of Possession.

Analysis

When an early end to tenancy is granted, instead of receiving a One Month Notice, which a tenant would receive when being evicted for cause, the tenant receives virtually no notice. An early end to tenancy is an extreme remedy under the Act, when there are provisions in the Act providing the Landlord with opportunity to evict the tenant for cause and providing the tenant with a specific notice period.

Under S. 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 of the residential property to wait for a notice to end tenancy under s. 47 of the Act (my emphasis). I am satisfied that this unreasonableness or unfairness exists in these circumstances. The actions of the tenants' boyfriend have caused the landlords to live in a state of uncertainty and fear of threats or reprisals and have established that a one month notice would escalate the fear and uncertainty they would have to endure. A landlord has a right to live in a peaceful manner in their own home without fear or threats of violence against them or further damage to their property. The actions of the tenants' boyfriend, allows me to use the extraordinary measure to end the tenancy early. For the above reasons I issue the landlords with an Order of Possession.



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Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective two days after service on the tenant. This order must be served on the 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 23, 2009.

Dispute Resolution Officer