

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking an order to end the tenancy early and an order of possession.

The Tenant was served with the Notice of Hearing and Application for Dispute Resolution by registered mail, sent on October 15, 2009. Under the Act the Tenant was deemed served five days after mailing. Nevertheless, the Tenant did not attend the hearing.

The hearing proceeded with the Landlord giving affirmed testimony.

### Issues(s) to be Decided

Are the Landlords entitled to an early end of tenancy and an order of possession?

### Background and Evidence

The parties signed a written tenancy agreement, on September 22, 2009. The Tenant and the Landlord agreed that only three people would occupy the subject rental unit, which is a basement suite in the Landlords' residential property.

Shortly after the Tenant moved in, a person permitted on the property by the Tenant began to sleep in his car on the rental unit property. This person would enter the premises of the Tenant to use the inside facilities, such as shower and washroom.

Although the tenancy agreement states there are no pets or smoking allowed in the rental unit, the Tenant began keeping a pet and smoking in the rental unit.

The Landlords explained to the Tenant and the person sleeping in the car that they were breaching the tenancy agreement. According to the testimony of the Landlord, the Tenant's son who also lives in the rental unit, told the Landlords, "we rent it, so we can do what we want", or words to that effect.

The Landlords became concerned and issued a one month Notice to End Tenancy for cause listing several different causes.

The Landlords then informed the police about the person sleeping in the car on the premises and the police told the person he could not stay on the property and he had to remove the car.

A few days after this, the Landlord was at a store and encountered the person and the Tenant's son. According to the testimony of the Landlord, the person confronted the Landlord and the Tenant's son came up behind the Landlord. The Landlord was struck from behind by the Tenant's son, and the Landlord fell to the ground. He was kicked and punched by the person and the Tenant's son.

The Landlords now fear for their well being and safety as the Tenant's son still lives in the basement suite. The Landlords do not want to wait for the one month Notice to End Tenancy to take effect at the end of November 2009.

### Analysis

Based on the testimony and uncontradicted evidence of the Landlords, and on a balance of probabilities, I find that the tenancy should end early and the Landlords are entitled to an **Order of Possession effective 24 hours after service on the Tenants**.

I am satisfied by the evidence and testimony presented at the hearing that the Tenant, or a person permitted on the residential property by the Tenant, has significantly interfered with and unreasonably disturbed other occupants or the Landlord.

I further find that the Tenant or a person permitted on the property by the Tenant, has seriously jeopardized the health and safety of the Landlord and the other occupants of the building, and it would be unreasonable and unfair to the Landlord or other occupants to wait for the notice to end tenancy under section 47.

The Landlords may retain **\$50.00** from the security deposit held in compensation for the filing fee for the Application.

### Conclusion

The Tenant or a person allowed on the property by the Tenant, has physically attacked one of the Landlords. These actions are not tolerable under the Act, and I grant and issue the Landlords an order of possession effective **24 hours after service on the Tenant**.

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: October 26, 2009.

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Dispute Resolution Officer