

DECISION AND REASONS

Dispute Codes: *ET, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for orders as follows:

- An order to end tenancy early pursuant to Section 56;
- An order to recover the cost of filing the Application for Arbitration pursuant to Section 72.

Issues to be decided

Is the landlord entitled to an order of possession to end tenancy early?

Is the landlord entitled to the recovery of the fee to file this application?

Background and Evidence

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

The landlord testified that the tenancy started on August 05, 2009. The monthly rent is \$550.00 due in advance on the first day of each month. The rental unit is located in the basement of the home that the landlord occupies.

The landlord stated that on October 21, 2009, he was approached by the tenant as he was about to get into his vehicle, to pick his son up from school. The landlord stated that the tenant was asking about a paper that he stated that had given to the landlord's wife and then proceeded to hit the landlord in the mouth, causing him to bleed. The landlord shouted out to his wife to call 911, which she did. He then picked up a brick to defend himself and hit the tenant several times before the police arrived. The police arrested the tenant and put him in jail for the night. The landlord provided a police file number.

The next morning the tenant was released and he returned to the landlord's front door and knocked. The landlord called 911 and the tenant was cautioned not to have contact with the landlord. The landlord stated that his family was traumatised by the event and his children are not permitted to play outside for fear of being physically hurt by the tenant.

The landlord stated that the tenant has taken empty bottles and cans from his sundeck several times and he has a video recording of the tenant trespassing on his sundeck which is on the upper level. The landlord also stated that the tenant has taken his son's lunch money from him and has verbally threatened to kill the landlord and his wife and destroy the landlord's property. The landlord runs a convenience store and the tenant also threatened to cause damage to the store.

The landlord is requesting an immediate end to tenancy in the interest of his health and safety and that of his family.

The tenant stated that on October 21, he approached the landlord as he was getting into his vehicle to ask him a question and the landlord "ran at him". The tenant's reaction was to strike the landlord in the face. The tenant admitted that he struck the landlord three times before the landlord picked up a brick to hit the tenant with. The tenant stated that he suffered several bruises and went to the hospital to have them treated.

The tenant stated that he did not steal bottles from the sundeck; he was putting them in a bag so that they did not fall off the deck and hurt his two children who visit him. The tenant also stated that the landlord's wife had given him a two month notice to end tenancy so that her son could occupy the lower suite. The landlord denied this. The tenant also stated that he has agreed to move on November 30, and would not be paying rent for November based on his entitlement from the notice to end tenancy for landlord's use.

Analysis

Based on the sworn testimony of both parties, I find that the landlord was assaulted by the tenant and his family were traumatised by the event. They are also fearful for their safety based on the verbal threats made by the tenant.

Pursuant to Section 56 of the *Residential Tenancy Act*, a landlord may make an application to request an order to end a tenancy early if the tenant has seriously jeopardized the health and safety of the landlord. Accordingly, I accept the landlord's

application for an early end to the tenancy and I grant him an order of possession effective two days after service on the tenant. I find that the landlord is also entitled to the recovery of his filing fee and may retain \$50.00 from the security deposit.

Conclusion

The landlord is granted an order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement. The landlord may also retain \$50.00 from the security deposit towards the recovery of his filing fee

Dated November 02, 2009.

Dispute Resolution Officer