



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 by the landlord to end the tenancy early and obtain an order of possession. The landlord and a witness for the landlord participated in the teleconference hearing. The landlord served the tenant with the application for dispute resolution and notice of hearing by posting the hearing package on the tenant's door on December 7, 2009. I found that the tenant was deemed to have been served with notice of the hearing as of December 10, 2009. The tenant did not participate in the teleconference hearing.

Issues(s) to be Decided

Should the landlord be granted an order of possession pursuant to the application to end the tenancy early?

Background and Evidence

The tenancy began on or about July 16, 2009. The rental unit in question is a condo in a strata building. The landlord's testimony was that he did have a written tenancy agreement with the tenant, but he did not provide a copy of the tenancy agreement as evidence for the hearing. The landlord was not sure whether he provided the tenant with a copy of the strata rules with the tenancy agreement, but the landlord testified that the tenant did sign a Form K that indicates the tenant agreed to abide by the strata rules.

The strata employs two resident managers to oversee the building. Beginning on July 24, 2009, the resident managers began to receive complaints from other occupants in the building regarding the tenant's behavior. These complaints included incidents of rude and aggressive behavior by the tenant toward other occupants and the resident managers; an odour of marijuana that appeared to be emanating from the tenant's unit on several occasions; noise complaints late at night; and the tenant's habit of propping open a side door to allow his guests access to the building. Since the outset of the tenancy the tenant violated strata by-laws by parking his uninsured vehicle in the building's underground parking and keeping one or more dogs in the unit. The testimony of the landlord was that he received the complaints from the resident managers and then gave the tenant several verbal warnings to correct the problems, but the tenant has not complied.

Analysis

Section 56 provides a remedy that is reserved for situations in which there is a serious measure of urgency, threat of imminent harm or liability risk such that it would warrant the immediate removal of the tenant from the premises without any notice and it falls on the landlord to establish that this is clearly the case.

I find that in this instance, the landlord has failed to provide sufficient evidence to warrant an early end of tenancy. After receiving the complaints about the tenant, the landlord ought to have investigated the complaints and obtained adequate evidence to support the allegations. If the landlord seeks to end the tenancy for breaches of the strata bylaws, he ought to have provided a copy of the tenancy agreement as evidence for the hearing and demonstrated that the tenant was provided with a copy of the bylaws. In regard to allegations of illegal activity, the landlord must first establish on a balance of probabilities that the activity is illegal, and then show that the illegal activity in question is significantly interfering with other occupants or putting the landlord's property at serious risk. The landlord must also demonstrate that there is a measure of

urgency to the situation that an early end of tenancy is warranted rather than issuing a one month notice to end tenancy for cause.

Conclusion

The landlord's application is dismissed, with the effect that the tenancy continues.

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: December 16, 2009.

Dispute Resolution Officer