



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET, FF

Introduction

This hearing was scheduled in response to the landlords' application for Dispute Resolution, in which the landlord has applied for an Order of Possession on an Early End to Tenancy and to recover the filing fee paid for this proceeding.

The landlord stated that the application and Notice of hearing was posted to the tenants' door on December 10, 2009. A witness statement has been provided to confirm this. These documents are deemed to have been served in accordance with section 89 of the *Residential Tenancy Act* (Act).

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to end the tenancy early and gain an Order of Possession on the basis of his application pursuant to section 56 of the *Act*.

Background and Evidence

This tenancy started on August 01, 2007. The tenant pays rent of \$375.00 per month which is due on the first of each month. This is a month to month tenancy.

The landlord has applied for an Early End to Tenancy and testifies that the tenant has caused a flood in his rental unit due to blocked kitchen sink which has caused some flooding into the apartment below him and caused some damage to the electrical fixtures and damage to the dry wall. On investigation the landlords found the kitchen sink, the bathtub and the sink in the bathroom to be clogged with hair, noodles and other objects. There were no concerns with the plumbing and after the blockages had been cleared, the plugs plunged and the trap cleaned out



Dispute Resolution Services

Page: 2

Residential Tenancy Branch
Ministry of Housing and Social Development

this resolved the immediate problem. The recent flood in the kitchen has caused damage to the base cabinets.

The landlord has concerns with the tenants' actions in his unit. They have found the unit to be un-kept with garbage everywhere. The landlord testifies that the tenant throws his garbage, old clothes and glass from his balcony and this has to be cleaned up by the maintenance man employed by the landlord on a daily basis.

The landlord also testifies that the tenant has caused regular nightly disturbances and some of the other tenants are frightened of this tenant. The landlord testifies that they have given the tenant many warnings about the condition of his unit and his actions and disturbances. He was working with them in the past to prevent this but has now stopped being cooperative with the landlords. As a consequence they feel the tenant has trashed his furnished rental unit and damaged the landlords' property.

The tenant testifies that he has had some problems but is willing to work with the landlords in cleaning up his rental unit. He states that he is now aware that it is not acceptable to throw his garbage from his balcony and will refrain from doing so in the future. He states he will now take all garbage out to the bins.

The tenant testifies that the only furniture which was broken was a glass coffee table. The tenant testifies that there was a flood in his unit and the tenant living under him told the tenant he had water leaking into his unit. The tenant states he tried to call the landlord who did not come and deal with the flood straight away.

Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would end if Notice to End Tenancy were given under section 47 of the *Act* and grant an Order of Possession for the rental unit if the tenant or persons permitted on the residential property by the tenant has done any of the following:

Residential Tenancy Branch
Ministry of Housing and Social Development

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;
- (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) caused extraordinary damage to the residential property, and
- (b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect.
- (3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I find that the landlord has provided insufficient evidence, pursuant to section 56 of The Act, to show that the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property; that he has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant; or that he has put the landlord's property at significant risk. I also find the landlord has not provided any evidence that the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property which has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property; has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the



Dispute Resolution Services

Page: 4

Residential Tenancy Branch
Ministry of Housing and Social Development

landlord. I also find the landlord has not provided sufficient evidence to show that the tenant has caused extraordinary damage to the residential property.

Therefore I find it would not be unreasonable or unfair to the landlord or other occupants of the residential property to wait for a Notice to End Tenancy under section 47 to take effect.

Conclusion

The landlords' application for an Early End to Tenancy is dismissed with leave to reapply in the event the problems from the tenant escalate. The tenancy may continue at this time.

As the landlord has not been successful with their application they must bear the cost of filing their own application.

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 17, 2009.

Dispute Resolution Officer