



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with the landlord's Application for Dispute Resolution to end the tenancy early.

Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to an Order of Possession resulting from an early end to tenancy; to a monetary Order to recover the filing fee from the tenant for the cost of the Application for Dispute Resolution, pursuant to sections 55, 56, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord issued a 1Month Notice to End Tenancy for Cause dated November 27, 2009. On December 7, 2009 the tenant submitted an Application for Dispute Resolution to cancel the Notice to End Tenancy and a hearing is set for January 25, 2009.

December 11, 2009 the landlord submitted an Application for Dispute Resolution to end the tenancy early along with the following documentary evidence:

- A copy of the 1 Month Notice To End Tenancy for Cause dated November 27, 2009 with an effective vacancy of December 31, 2009, citing the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord and seriously jeopardized the health or safety of another occupant or the landlord; and the tenant has engaged in illegal activity that has or is likely to adversely affect the quiet enjoyment, security or physical well-being of another occupant or the landlord and jeopardize a lawful right or interest of another occupant or the landlord;
- A letter from the RCMP dated November 10, 2009 regarding an incident involving a tenant at the residential property address;
- A letter from a neighbouring tenant regarding their loss of a quiet enjoyment resulting from the respondent tenant's behaviour;
- A copy of a Mutual Agreement to End a Tenancy signed by the landlord and the neighbouring tenant effective for January 15, 2010; and
- A summary statement from the landlord including a list of several potential witnesses.

In the hearing both the landlord and her agent provided testimony to specific events during the tenancy that have lead to the issuance of the 1 Month Notice to End Tenancy, including alleged threats made by the tenant to both them and to the neighbouring tenant's young son.

The landlord provided witnesses who testified to two separate incidents. The first witness confirmed that on October 11, 2009 she saw the tenant being taking away by the police. In her testimony she states the tenant was yelling but could not state what the tenant was saying. She confirmed that she did not know why the police took the tenant away.

The landlord's second witness was an electrical contractor who stated he had been doing some work for the landlord on the residential property and that while he was there the tenant came out and started yelling and swearing at him and complained about the noise of other tenants. The witness could not provide a dated when this occurred but rather testified that it had been a couple of months ago at about 7:00 or 7:30 p.m.

Several attempts were made to call in a third and fourth witness – the neighbouring tenants, the tenants did not answer their phones when called both by myself and by the conference call operator.

The landlord contends that she will be losing her other tenants as a result of this tenant's behaviour therefore impacting her financial situation. From the evidence submitted the landlord has signed a Mutual Agreement to End a Tenancy form with the other tenants for January 15, 2010.

The tenant disputes all testimony and submits that all of the witnesses have been lying and that the police had falsely imprisoned her on previous occasions and that she has complained about it and that is why they took her away on October 11, 2009.

Analysis

Section 56 of the *Act* allows a landlord to make an Application for Dispute Resolution to end a tenancy earlier than it would end if given a notice under Section 47, if the tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property at significant risk;
- engaged in illegal activity that
 - has caused or is likely to cause damage to the landlord's property,

- 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
 - has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property

The section goes on to require that it would be unreasonable or unfair to the landlord or other occupants of the residential property to wait for a 1Month Notice to End Tenancy for Cause to take effect.

I find the landlord has provided insufficient evidence to end the tenancy on a date earlier than the tenancy would end if notice under Section 47 were given. I also find that it would not be unreasonable or unfair to the landlord or other occupants to wait for such a notice to take effect.

The landlord has taken appropriate actions to meet her obligations under Section 28 of ensuring the neighbouring tenants have quiet enjoyment of their home for the neighbouring tenants by issuing the 1 Month Notice to the respondent tenant.

The landlord could have waited until the outcome of the hearing on January 25, 2010 to determine what her next steps would be, such as mutually agreeing to end the neighbours' tenancy, if required.

Conclusion

Based on the above findings I dismiss the landlord's application to end the tenancy early, pursuant to Section 56 of the *Act*. The landlord is still able to file an application for an Order of Possession for Cause as per Section 47 of the *Act*.

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 18, 2009.

Dispute Resolution Officer