

DECISION

Dispute Codes ET

Preliminary Issue

The Tenant confirmed that the application for dispute resolution shows his given name and middle name in reversed order. I noted that there is a comma written after the Tenant's middle name and then lists the Tenant's given name.

As there is evidence of a comma between the names, and both names are the Tenant's legal given and middle names I accept that the Tenant's name is listed properly and the style of cause displays the Tenant's name and his nickname as confirmed by the Tenant.

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to Obtain an Order to End the Tenancy early.

Service of the hearing documents, by the Landlord to Tenant, was done in accordance with section 89 of the *Act*, served personally to the Tenant by the Landlord's adult son, in the presence of the Landlord, at the rental unit on approximately December 17, 2009. The Tenant confirmed receipt of the hearing document.

The Landlord, the Landlord's three witnesses, and the Tenant appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Has the Landlord proven entitlement to end the tenancy early and obtain an Order of Possession under section 56 of the *Residential Tenancy Act*?

Background and Evidence

The month to month tenancy began on November 6, 2006 with the monthly rent payable on the first of each month in the amount of \$800.00. The Tenant paid a security deposit of \$375.00 on November 6, 2006.

Witness (1) provided affirmed testimony that he has resided in the adjacent basement suite to the Tenant for over eleven (11) years, since approximately 1997 or 1998.

Witness (1) argued that for the past two "solid months" he has been disturbed at all hours of the evening and early morning by the Tenant and his guests who are occupying the adjacent basement suite.

Witness (1) stated that the ongoing disturbances are unpredictable and are creating "noise pollution" which is negatively affecting his sleep and his ability to get up rested for work at 4:45 am. Witness (1) argued that the disturbances involve loud banging, screaming, loud music, arguing, cursing, and that these disturbances happen after 11:00 p.m. and on every day of the week.

Witness (1) referred to a specific incident that happened 1 1/2 weeks ago whereby a stranger knocked on his door prior to 5:00 am asking him if "you two guys ordered Carlito's". Witness (1) stated that he found this to be very disturbing and he suspected that this person was attempting to deliver illegal drugs to the other rental unit and that he is really concerned with the goings on at the other rental unit. He stated that he also witnessed a female who was smoking a type of illegal drug in a car at the rental unit.

Witness (2) provided affirmed testimony that the police have been called more than six times in the last few months to deal with the loud noises, music, fighting, and disruption being caused.

Witness (2) argued that there have been two incidents whereby friends of the Tenant have broken into the Tenant's basement suite while Witness (2) was at home with her sister and small niece. The police were called and it was determined that during one of the break-ins the Tenant's friends broke a window to gain entry into this unit.

Witness (2) referred to an incident of December 1, 2009 whereby she feared for her mother's life when her mother went downstairs to tell the Tenant to turn down the music and be quiet when Witness (2) and her siblings heard loud screams and yelling from the Tenant's guest and then they heard their mother scream. Witness (2) stated that she ran downstairs with her siblings to ensure their mother was not harmed. On December 2, 2009 the whole family attended the rental unit with her mother and they asked the Tenant to sign a document agreeing to end the Tenancy on January 2, 2010. Witness (2) stated that the Tenant agreed to end the tenancy and he signed the paper on December 2, 2009.

Witness(3) attended, provided affirmed testimony, and also spoke as an Agent for the Landlord, whereby he confirmed that the police have been called on more than seven

occasions in recent months to deal with this Tenant and his guests. Witness (3) argued that the disruptive behaviours began about four months ago and that the behaviours began to escalate on December 1, 2009 and is steadily getting worse.

Witness (3) testified that the disturbances are getting louder with the Tenant's female guest screaming, yelling, and threatening and kicking the door which divides the rental property from the Landlord's residence.

Witness (3) stated that he is fearful because of the stress being caused to his family especially his mother who suffered a heart attack on December 10, 2009. Their lives have become frightening and he is scared because of the Tenant's female guest is becoming more bold in her behaviours.

The Landlord testified and confirmed that the Tenant and his guest's behaviour are becoming worse. The Landlord argued that there are anywhere from three to five additional people in the rental unit that they do not know who are contributing to the disruptive behaviours.

The Landlord argued that on December 1, 2009 when she went downstairs to have the Tenant stop the noise she was confronted by the Tenant's female guest. The Landlord testified that the female guest threatened the Landlord when she was yelling and screaming and said "we'll kill you if you come in my basement."

The Landlord stated "I want to protect my family but I'm scared".

The Tenant testified and confirmed that he has allowed the female guest to reside with him along with one of her female friends and some other males who have recently been released from other custody situations.

The Tenant stated that his female guest does have a drug addiction problem and that she does slip and use drugs.

The Tenant testified and confirmed that he signed the agreement to end the tenancy and that he is aware that his guests have been causing problems with the Landlord and her family. The Tenant stated that the Landlord had told him a few months back his female guest could not reside with him at the rental unit and so he left for a few months and resided elsewhere with her.

In closing the Tenant stated that he is aware that his female guest/roommate is disruptive.

Analysis

When applying to end a tenancy early the Landlord bears the burden of proof that the Tenant or person permitted on the residential property by the tenant has either significantly interfered with or unreasonably disturbed another occupant or the landlord or has seriously jeopardized the health or safety or lawful right or interest of the landlord or another occupant.

The Tenant has confirmed that his guest(s) have disruptive behaviours, that these guests are residing with him at the rental unit, and that the Tenant signed a document to end the tenancy on January 2, 2010 as a result of these disruptive occurrences.

The Tenant's testimony confirms the behaviours and types of persons he is associating with; and the Landlord's testimony and lack of denial from the Tenant supports that the Landlord's life was threatened by the Tenant's guest; and the Tenant confirmed that he signed the agreement to end the tenancy because he knows that he and his guests have been disruptive; I find that in the presence of such threatening and disruptive behaviour a reasonable person ought to know that the tenancy would not be allowed to continue. Based on the above I find that the Landlord has met the burden of proof as listed above.

Conclusion

I HEREBY FIND that the Landlord is entitled to an Order of Possession effective **two days after service on the Tenant**. This order must be served on the Tenant and may be filed in the Supreme Court and enforced as an order of that Court.

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 23, 2009.

Dispute Resolution Officer