



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's request for an early end of tenancy and request for an Order of Possession. The tenant did not appear at the hearing. The landlord testified that the landlord affixed the hearing documents to the rental unit door on December 30, 2009. The landlord testified that the tenant did not move into the rental unit but that the tenant permitted unknown occupants to move in. The landlord is unaware of the tenant's whereabouts but he has spoken to the tenant on the telephone.

Section 89(2) provides for service of hearing documents where the landlord is seeking an Order of Possession. Attaching hearing documents to a door at the address at which the tenant resides is sufficient service in accordance with section 89(2). Although I heard the tenant does not reside at the rental unit, having heard the tenant has permitted other persons to occupy the rental unit and did not inform the landlord of his current residence, I accept service of the hearing documents by posting on the rental unit door. Therefore, in accordance with my authority under section 71(2) I order that the hearing documents were sufficiently served upon the tenant three days after the hearing documents were posted and the landlord's request has been considered.

Issues(s) to be Decided

Has the landlord established an entitlement to end the tenancy early and obtain an Order of Possession?

Background and Evidence

The landlord testified that he entered a verbal tenancy agreement with the tenant for a tenancy to commence on December 1, 2009 for a monthly rent of \$1,500.00. The tenant paid the landlord \$1,500.00 and the landlord gave a key to the rental unit to the tenant on December 2, 2009. The landlord was to collect a security deposit from the tenant sometime in December 2009. On December 17, 2009 the landlord attended the property and discovered the tenant had not moved in. Rather, other persons and two pitbull dogs are occupying the rental unit. The landlord telephoned the tenant and the tenant was rather evasive concerning the situation at the rental unit.

Upon enquiry, the landlord testified that he had not been threatened and he is not aware of any significant damage to the rental unit at this time. The landlord also stated that the tenant never paid the security deposit, has not paid rent for January 2010, breached the terms of the tenancy agreement by letting other people occupy the rental unit and permitting dogs in the rental unit.

The landlord stated that he has received complaints from neighbours and the police have been called to the property in response to fighting. I also heard that a police report has been filed concerning the alleged illegal activity taking place at the rental unit.

Analysis

The landlord has made an application for an early end to tenancy. As the landlord was informed at the hearing, the threshold for establishing an early end of tenancy is very high. Section 56 of the Act permits me to make an Order to end the tenancy early if it is unreasonable to wait for a 1 Month Notice to End Tenancy for Cause to take effect and I am satisfied that:

(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

- (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,

While I have heard the landlord may have grounds to end the tenancy for unpaid rent and for cause, I do not find the landlord satisfied me that there is significant damage or risk to the landlord's person or property or that other occupants or the landlord have been significantly interfered with. Therefore, I deny the landlord's request for an early end of tenancy and Order of Possession.

Although I have denied the landlord's request for an early end of tenancy, the landlord is at liberty to issue a *10 Day Notice to End Tenancy for Unpaid Rent* with respect to January 2010 rent and a *1 Month Notice to End Tenancy for Cause*. I Order that service of a Notice to End Tenancy issued to the tenant and any subsequent hearing documents may be served upon the tenant by posting documents on the door of the rental unit and the documents will be deemed served upon the tenant three days after posting.

Conclusion

The landlord's request for an early end of tenancy and Order of Possession was dismissed due to insufficient evidence an early end of tenancy is warranted.

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: January 05, 2010.

Dispute Resolution Officer