



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 an application by the landlord pursuant to section 56 of the *Residential Tenancy Act*, for an order to end the tenancy early and obtain an order of possession. The landlord also applied for the filing fee.

The landlord testified that she served the tenant with the notice of hearing and application for dispute resolution on December 22, 2009, by taping the package to the front door of the rental unit. The tenant did not participate in the conference call hearing. I found that the tenant had been served with notice of the landlord's claim and the hearing proceeded in the tenant's absence.

Issues to be Decided

Is the landlord entitled to end the tenancy early?

Background and Evidence

The tenancy started on September 24, 2009. The monthly rent is \$500.00. The landlord stated that two to three days into the tenancy, the tenant stated communicating with the landlord in a rude and aggressive manner using racial slurs. In addition, the tenant did not pay rent for October. On October 11, 2009, the landlord served the tenant with a one month notice to end tenancy with an effective date of November 30, 2009. The landlord cited the following reasons for the notice to end tenancy:

- Tenant is repeatedly late paying rent
- Tenant has significantly interfered with or unreasonably disturbed the landlord

- Tenant has seriously jeopardized the health or safety of the landlord
- Tenant has put the landlord's property at significant risk
- Tenant has engaged in illegal activity that has damaged the landlord's property
- Tenant has adversely affected the quiet enjoyment, security , safety or physical well- being of the landlord
- Tenant has caused extraordinary damage to the property
- Tenant has breached a material term of the agreement
- Tenant knowingly gave false information to prospective tenant

The landlord also testified that on December 06, 2009, the tenant got into an argument with the landlord and pushed her. The police attended the site and took no action other than to advise the landlord to refrain from having contact with the tenant. The landlord stated that she feared for her safety. The tenant agreed to move on December 15, 2009 but did not do so. On December 21, 2009, the landlord applied to put an early end to tenancy.

Analysis

Section 56 is an extraordinary remedy that is reserved for situations in which there is a clear and present danger, or a genuine threat of imminent harm of such an extreme nature that it would warrant immediate intervention and removal of the tenant.

The landlord served a one month notice to end tenancy with an effective date of November 30, 2009. The landlord applied for an early end to tenancy under section 56 instead of making application under section 55. The incident that the landlord described took place on December 06 and the landlord waited for approximately two weeks before she applied for an early end to tenancy.

Based on the documentary evidence and testimony of the landlord, I am not persuaded that there is a threat of imminent harm of an extreme nature and that it would be unreasonable or unfair for the landlord to apply for an order of possession under section 55 of the *Residential Tenancy Act*.

While the landlord may have cause to end the tenancy, the landlord has not established grounds for an extraordinary remedy such as this. For the above reasons, I dismiss the landlord's application to end tenancy early.

Conclusion

The landlord's application is dismissed and she must bear the cost of filing this 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: January 04, 2010.

Dispute Resolution Officer