



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

ET

Introduction

This Dispute Resolution hearing was convened to deal with the landlord's application seeking an order to end the tenancy early without notice to the tenant.

The landlord appeared and gave testimony that the tenant was served with the Notice of hearing on January 28, 2010 by posting it on the door. This is deemed to be served in three days under the Act. Despite being properly served, the tenant did not appear.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy without notice pursuant to section 56 of the Act?

Background and Evidence

The tenancy began on January 4, 2010 with rent set at \$900.00 and a security deposit of \$450.00 was paid. The unit was situated in a four-plex with three other rental units occupied. Submitted into evidence by the landlord was a written chronology of incidents and a letter of complaint about the tenant sent to the landlord on January 21, 2010 by another resident in the building.

The landlord testified that problems began a few days after the tenants moved in and on January 6, 2010 the new tenants disturbed several other occupants with loud arguments, yelling and other noise which generated complaints to the landlord, including a letter. The landlord testified that on January 8, 2010 there was more fighting and the police attended the unit. The landlord testified that on

January 11, 2010 a written warning was issued advising the tenants to cease disturbing other residents and failure to stop the offending conduct would place their continued tenancy at risk. However, for the next two weeks the disturbances continued and on January 26, 2010 the police attended initially on a noise complaint but decided to obtain a search warrant due to discovery of stolen property in the unit. The landlord provided a police incident report number. The landlord testified that when, in the early hours of January 28, 2010 the tenants returned to the unit, they again engaged in a loud argument with screaming and yelling awakening the other residents.

The landlord received a call from one of the other residents in the complex who advised the landlord that he wanted to move due to the fact that he could not sleep which placed his employment in jeopardy. The landlord permitted this other resident to terminate his tenancy and move out on three days notice.

The tenants continued to disturb other resident into the day of January 27 resulting in police attendance and the issuing of a noise bylaw infraction. The landlord provided a police incident report number and officer contact name.

On January 28, 2010, one of the tenants intentionally plugged the bathroom sink and turned on the hot water leaving it running and left the unit. Although the other tenant remained in the unit, she did not act and permitted the water to overflow the sink and flood the unit below. Police intervened and entered the rental unit. Apparently charges were laid against the tenant responsible. The landlord provided a police incident report number. The tenant's actions caused extraordinary damage to the ceiling below, which subsequently fell.

The landlord testified that a One-Month Notice was issued on January 27, 2010 and a Ten-Day Notice to End Tenancy for Unpaid Rent was issued on February 2, 2010 as the tenant failed to pay rent.

The landlord is seeking an immediate Order of Possession without Notice under section 56, because the landlord contends the delay in enforcing a Notice for Cause would be unreasonable and unfair to the landlord and other residents in the complex.

Analysis

Section 56 of the Residential Tenancy Act provides that a landlord may make an application for dispute resolution to request an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and granting the landlord an order of possession in respect of the rental unit.

Before issuing an Order ending the Tenancy under section 56 a Dispute Resolution Officer must be satisfied under section 56(2) that both of the following has been proven:

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

- 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;

Has 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, **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.

Based on the testimony of the landlord and the evidence, I find that this situation does satisfy the criteria specified in section 56(2)(a) of the Act. Because of the nature of the conduct in question, I find that the circumstances also meet the second threshold under 56(2)(b) and I find 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. I find that the landlord and other residents are at risk and the situation needs to be addressed in an urgent manner without further delay.

Conclusion

Accordingly, I hereby order that this tenancy is ended and I grant the Landlord an Order of Possession. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

February 2010

Date of Decision

Dispute Resolution Officer