



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

ET

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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. Both parties appeared and each gave testimony in turn.

Issue(s) to be Decided

The landlord is seeking an Order of Possession based on section 56(1) of the *Residential Tenancy Act*, (the *Act*), which permits the landlord to end a tenancy without notice to a tenant in certain restricted and compelling circumstances. In making a determination on this matter, the following issue must be to be decided based on the testimony and the evidence presented during the proceedings:

- Has the landlord established sufficient proof that the criteria contained in section 56(2) of the *Act* has been met to justify ending the tenancy and entitle the Landlord to be granted an Order of Possession under the *Residential Tenancy Act*, (the *Act*)? This requires a determination of whether both of the following has occurred:
 - a) the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed ,

seriously jeopardized the health or safety or a lawful right or interest of the landlord or other occupants, or has put the landlord's property at significant risk or engaged in illegal activity that has resulted in causing damage, and affecting the quiet enjoyment, security, safety, physical well-being, lawful right or interest of another occupant of 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

Background and Evidence

The tenancy began in April 2004 with rent set at \$800.00 and no security deposit was paid. No tenancy agreement was submitted into evidence. The landlord testified that the tenancy should end because the tenant has placed the property at risk by changing the locks on the garage which was a common area, firing guns on the premises and by altering the electrical system. The landlord testified that the tenant's activities invalidated his home owners insurance. The landlord submitted photos showing the changed locks and interior of the garage.

The tenant testified that the garage was never a common area and that because his firearms business operated out of the garage, which was agreed to in the tenancy, he had to restrict access for legal reasons. The tenant denied testing firearms on the premises.

Analysis

Section 56 of the Act provides that a landlord is entitled to end a tenancy without notice to the tenant if the conduct meets two conditions:

First is where the tenant has either significantly interfered with or unreasonably disturbed another occupant; seriously jeopardized the health or safety or a lawful right or interest of the landlord or; put the landlord's property at significant risk; or where the tenant has engaged in illegal activity that has, or is likely to damage the landlord's property, adversely affect the quiet enjoyment, security, safety or

physical well-being of another occupant, jeopardize a lawful right or interest of another occupant or the landlord or cause extraordinary damage to the residential property.

In addition to one of the above, , the landlord must prove that 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 and the burden of proof to justify an immediate end to a tenancy on this basis is quite high. However, as both parties have expressed that an end to the tenancy is the best solution, a mediated discussion ensued in regards to a mutually agreeable date and the parties reached the following consensus:

- On consent of the parties, the landlord will receive an Order of Possession effective 1:00 p.m. on Monday February 15, 2010.
- The landlord is willing to waive the rent owed for the month of February 2010 on the condition that the tenant vacate on or before the effective date shown on the Order of Possession
- The tenant has committed to leaving the premises in a reasonably clean undamaged condition.

Conclusion

Accordingly, based on the mutual agreement of the parties, I hereby order that this tenancy will end by consent on February 15, 2010 and I hereby issue an Order of Possession in favour of the landlord, effective February 15, 2010. 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