



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 he served the tenant with the notice of hearing and application for dispute resolution on January 28, 2010, by posting the notice on the tenant's door, in the presence of his witness. 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? Is the landlord entitled to the recovery of the filing fee?

Background and Evidence

The tenancy started on November 01, 2009. The rental unit is a one bedroom apartment located in an apartment building. The monthly rent is \$700.00 payable on the first of each month. Prior to moving in, the tenant paid a security deposit of \$350.00.

The landlord testified that the occupants of the building complained of the smell of marijuana emanating from the rental unit, on a daily basis. In addition, the complainants stated that strangers and drug addicts came and went at all times of the day and this activity compromised the security and safety of the building and its occupants. The landlord filed three letters of complaint written by other occupants of the building.

On January 25, 2010, the landlord served the tenant with a 24 hour notice to inspect the apartment. On January 26, 2010, the tenant was home and refused the landlord access to the unit. The landlord called the police for assistance.

By the time the police arrived at the unit, the tenant had left. The landlord entered the apartment with police. Upon entry, the landlord smelled marijuana and found evidence of a grow operation inside the apartment. The landlord filed photographs which show an incubator, marijuana plants and a huge tank of Carbon Dioxide gas.

The landlord testified that the gas tank posed a serious threat of explosion and fire. Combined with the cultivation of marijuana plants and the frequent visitors, the landlord determined that the condition of the rental unit and the activities of the tenant put the landlord's property at risk and adversely affected the security, safety and physical well-being of the other occupants. Accordingly, on January 27, 2010, the landlord applied for an immediate order of possession.

Analysis

Based on the above facts and in the absence of any contradictory evidence, I am satisfied that the tenant's behaviour and involvement in illegal activity has seriously jeopardized the landlord's property and the safety and security of other occupants and unreasonably disturbed other occupants.

In the circumstances it would be unreasonable and unfair to require the landlord to wait for a notice to end the tenancy under s. 47 and therefore I find that the landlord is entitled to an order for possession.

A formal order has been issued and may be filed in the Supreme Court and enforced as an order of that Court. I further order the tenant to pay to the landlord the sum of \$50.00 being the cost of the filing fee paid.

Conclusion

I grant the landlord an order of possession effective two days after service on the tenant. The landlord may retain \$50.00 from the security deposit.

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: February 05, 2010.

Dispute Resolution Officer