



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPC, ET

Introduction

This hearing was convened by way of conference call this date to deal with the landlord's application for an Order of Possession and for an order ending the tenancy early. The landlord attended the conference call hearing and gave affirmed testimony. The tenant did not attend the hearing.

Issues(s) to be Decided

Is the landlord entitled to an order ending the tenancy early and obtaining an Order of Possession?

Background and Evidence

This month-to-month tenancy began on March 13, 2008 when the tenant resided in one unit, and then moved to another unit within the same complex on May 1, 2010. Rent in the amount of \$495.00 is payable on the 1st day of each month, and there are no arrears. The landlord also collected a security deposit in the amount of \$247.50 on March 13, 2008.

The landlord testified that another tenant in the building had disclosed to her that she had been confined by the tenant in his apartment and tortured on May 7, 2010. The victim further disclosed to the landlord that he had dragged her by the hair into his suite, strapped her to a board, threw hot coffee in her face, poured orange juice over her head and beat her with a belt and belt buckle. She stated that he untied her and then tied her up again, told her that he wanted her dead and would "get the manager as well."

The landlord also testified that the victim disclosed to her that he let her go in the morning but said he would be after her again. She went to another apartment and called the police. The tenant in this apartment called the landlord to advise that the police were on the way and would want a key to the tenant's apartment, and that the victim had been taken by ambulance to hospital.

The landlord testified that she spoke to the police and provided a key to the unit. She was present when the police attempted to open the door of the unit, but the tenant had changed the locks and had placed a metal bar across the door. The police then broke the door down and arrested the tenant.

The landlord further testified that the police had provided her with a file number, and advised her that charges of forcible confinement, kidnapping, assault with a weapon, and uttering threats would be sworn against the tenant. Further, she was advised that the tenant had appeared in Court by way of video link and was remanded in custody for a 2 month psychiatric assessment.

The landlord also fears for her safety when the tenant is released from custody.

The landlord also provided viva voce evidence that she had served the tenant with the Landlord's Application for Dispute Resolution and notice of hearing documents on May 16, 2010 by posting same to the door of the residence.

Analysis

I find that the landlord has complied with Section 89 (2) of the *Residential Tenancy Act* as it relates to service of the Landlord's Application for Dispute Resolution and notice of hearing documents.

I also find that the landlord has cause to request an Order of Possession for cause pursuant to Section 47 (1) (e) of the *Act*, in that the tenant has engaged in illegal activity that has affected the safety or physical well-being of another occupant of the residential property.

I further find that the landlord has proven, pursuant to Section 56 (2) (b) that it would be unreasonable or unfair to the landlord to wait for a notice to end tenancy under Section 47 to take effect. Further, I find that my order under Section 56 permits the landlord to take possession of the rental unit without the necessity of giving the tenant notice to end the tenancy, pursuant to Section 56 (3) of the *Act*.

Conclusion

I hereby grant an immediate Order of Possession in favour of the landlord.

I further order that the landlord recover the filing fee for the cost of this application and direct that the amount of \$50.00 be retained from the security deposit paid by the tenant at the outset of the tenancy.

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: June 03, 2010.

Dispute Resolution Officer