



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking an order to end the tenancy early and obtain an order of possession for the rental unit.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

The Tenant did not appear at the hearing until 10 minutes after it started. The Tenant was affirmed into the hearing, I recounted the evidence of the Landlord that I had heard to that point, and the Tenant was allowed to reply and testify. The Tenant had not submitted any documentary evidence.

Issues(s) to be Decided

Should the tenancy end early and the Landlord be granted an order of possession?

Background and Evidence

The Landlord provided evidence and testimony that the Tenant has created rental suites in the basement of the rental unit and is renting those out, without his prior written consent. The Landlord also alleges that the Tenant has disturbed other occupants with yelling, noise and swearing at them. The Landlord also alleges the Tenant swore at him and yelled. The Landlord has served the Tenant with a 10 day Notice to End Tenancy for unpaid rent and utilities, and a one month Notice to End Tenancy for cause, however, recent events have prompted the Landlord to apply to end this tenancy earlier than waiting for the Notice to End to take effect.

Two other occupants of the rental unit supplied letters explaining the complaints about the Tenant. They allege the Tenant has yelled at them and their families.

One of the writers explains the Tenant has threatened to “kick us out” and have someone come and remove their personal property. The writer also alleges that the Tenant has thrown their children’s toys around the yard angrily, and has entered their rental units without permission or notice on more than one occasion. They also allege the Tenant plays his guitar and music loudly late at night. The writer concludes by stating her and her family feel threatened by the Tenant.

The other writer states he has been verbally assaulted and threatened by the Tenant. He states the Tenant has ordered them to leave the property. This writer also complains about the noise the Tenant makes with his music late at night. He explains the Tenant has entered his rental unit unannounced and uninvited. He writes that he feels his wife and child’s safety are at jeopardy.

In evidence the Landlord also provided photographs of the exterior of the rental unit showing piles of garbage and debris.

The Tenant started by testifying he has been living there for four years.

The Tenant then requested an extension of time to provide witnesses and evidence for this hearing. He denied ever throwing toys, although he testified that the children often leave them where they should not be.

When asked if he had entered the rental units of the other occupants, he testified that they were illegal suites down there.

The Tenant then testified about fishing trips he has taken. He then denied the photographs of the Landlord were accurate and said that the other renters had made the mess. The Tenant explained he was going to leave the rental unit at the end of June when his daughter finishes school.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find that the Tenant has significantly interfered with and unreasonably disturbed other occupants and the Landlord. I further find that it would be unreasonable and unfair to the other occupants to wait for a Notice to End Tenancy under section 47 to take effect.

The Tenant’s testimony amounted to a 15 minute rant. He was interruptive and often yelling and incoherent. As examples, at one point in the hearing he was discussing his

fishing trips; and at the end of the hearing he began telling this Officer about his child custody hearings and how he was glad this Officer did not preside over those for him.

While the Tenant wanted to have some unnamed witness testify at the hearing, it was apparent that no witness could rehabilitate the testimony of the Tenant. He was evasive and inconsistent in his testimony. I accept the preponderance of evidence against him.

Therefore, having found in favour of the Landlord, I grant an order of possession for the rental unit effective two days after service on the Tenant.

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 22, 2010.

Dispute Resolution Officer