

Decision

Dispute Codes: ET / OPC, FF

Introduction

This hearing dealt with an application by the landlord for an early end to tenancy and an order of possession, in addition to recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the landlord is entitled to the above under the Act

Background and Evidence

A copy of the written tenancy agreement is not in evidence for this tenancy which began on August 1, 2006. Currently, rent in the amount of \$596.00 is payable in advance on the first day of each month. A security deposit of \$275.00 was collected on or about July 13, 2006.

Arising principally from complaints related to the tenancy from other tenants, the landlord seeks an early end to tenancy and an order of possession. Complaints include, but are not necessarily limited to, allegations about “yelling and screaming” in the unit and in common areas between the tenant and her boyfriend, entry into the tenant’s unit through windows by unnamed persons, discovery of the tenant’s boyfriend in an intoxicated state near the top of a stairwell inside the building, the smell of smoke emanating from the tenant’s unit which is a non-smoking unit, and an occasion when the tenant’s boyfriend was seen naked in a common area in the building.

In the main, the above concerns arose during the months of February and March 2010. The landlord’s documentary evidence is that a more recent complaint about noise in the tenant’s unit was made early in May, just prior to the time when the landlord made his application for an early end to tenancy and an order of possession. During the hearing

the landlord stated that things appear to have quieted down of late and that when problems do arise, it is typically when the tenant's boyfriend visits with her.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute, and undertook to achieve a settlement. However, these efforts did not lead to a resolution of the dispute.

Analysis

Section 56 of the Act speaks to **Application for order ending tenancy early**, and provides in part as follows:

56(1) A landlord may make an application for dispute resolution to request an order

(a) 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

(b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end tenancy under section 47 [*landlord's notice: cause*] to take effect.

Having carefully considered the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has not met the burden of proving 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.” Accordingly, I hereby dismiss the landlord’s application for an early end to tenancy and an order of possession.

In the meantime, the attention of the parties is drawn to section 47 of the Act which speaks to **Landlord’s notice: cause**. A copy of this section of the Act is enclosed for ease of reference.

Conclusion

The landlord’s application for an early end to tenancy and an order of possession is hereby dismissed.

As the landlord did not succeed in the above application, the application for recovery of the filing fee is also dismissed.

DATE: June 16, 2010

Dispute Resolution Officer