

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 agent for the landlord testified that he served the tenant with the notice of hearing and application for dispute resolution on June 23, 2010, in person. 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?

Background and Evidence

The tenancy started on May 21, 2010. The landlord stated that the problems started on the first night of the tenancy. The tenant has visitors coming and going at all hours causing noise disturbances. In addition, the visitors get into fights and cause problems that require police intervention. The landlord stated that on May 21, the tenant got into an argument with a resident of the building and threatened to stab him. Another resident has made a noise complaint in writing.

Despite having problems with the tenant starting May 21, the landlord did not issue any warning letters or a notice to end tenancy for cause prior to applying for an immediate end to tenancy on June 21, 2010. The landlord filed one letter dated June 21, from another resident regarding a noise disturbance. The agent for the landlord stated that other residents will not testify for fear of retaliation. The landlord also stated that his safety is at risk due to the violent behavior of the tenant and his visitors.

Analysis

Section 56 is an extraordinary remedy that is reserved for situations in which there is a clear and present danger, or a genuine threat of imminent harm of such an extreme nature that it would warrant immediate intervention and removal of the tenant.

In addition to proving that there is cause to end the tenancy, in an application of this nature the landlord must clear a second hurdle. Under section 56(2)(b) of the Act, in order to establish a claim for an early end to tenancy, the landlord must establish that “it would be *unreasonable, or unfair* to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47” .

The landlord stated that the problems started on May 21, 2010 but he made application for an early end to tenancy, one month later on June 21, 2010. The only evidence filed by the landlord is a noise complaint made by a resident of the building. Based on the documentary evidence and testimony of the landlord, I am not persuaded that it would be unreasonable or unfair for the landlord to wait while a one month notice to end tenancy takes effect. While the landlord may have cause to end the tenancy, the landlord has not established grounds for an extraordinary remedy such as this. For the above reasons, I dismiss the landlord's application to end tenancy early.

Conclusion

The landlord's application is dismissed and he must bear the cost of filing this application.

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: July 05, 2010.

Dispute Resolution Officer