



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, MT, FF, O

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and the witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request to have a Section 47 - 1 month Notice to End Tenancy cancelled, and a request that the respondent's bear the \$50.00 cost of the filing fee that was paid for the application for dispute resolution.

Background and Evidence

The landlords testified that:

- On June 24, 2010 the applicant assaulted two other residents in the rental property, spraying both in the face with spray paint, and physically assaulting the other parties.
- As a result of the assault the police were called in the applicant was arrested and taken away in handcuffs.

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- The applicant has subsequently been charged with assault in a trial date is pending.
- The landlords therefore wish this tenancy ended and an Order of Possession be issued.

The applicant testified that:

- It was she who was attacked first, by the parties who are claiming that she attacked them.
- She was first sprayed in the hand and arm, and therefore she knocked the can of spray paint out of the attackers hand and sprayed her back.
- She also sprayed the attacker's husband when he came to assist her however this was only done in self-defence as she had been sprayed first.

Witnesses for the landlords testified that:

- They were both physically assaulted, and sprayed with spray paint by the applicant.
- This was a totally unprovoked attack and was in no way instigated by them.
- It was the applicant who had the spray can and was concealing it behind a pizza box until she was close enough to attack them, spraying them in the face and in the eyes.
- The applicant also broke their phone when they threatened to call the police.
- They subsequently called the police from another tenant's suite and the applicant was arrested.

Analysis

It is my finding that the landlords have met the burden of proving that the applicant assaulted two other tenants in the rental property.



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I do not accept the applicants claim that she was assaulted first, as she has no evidence to support this claim.

This assault is a very serious matter and the landlords certainly have reasonable grounds for ending the tenancy.

I therefore will not set aside the Notice to End Tenancy.

Conclusion

This application is dismissed in full without leave to reapply and I have issued an Order of Possession to the landlords for 1 p.m. on August the 31st 2010.

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: August 26, 2010.

Dispute Resolution Officer