

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. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Does the landlord have cause to end the tenancy early?

Background and Evidence

The tenant rents a self contained suite in the landlord's home. This tenancy started on December 01, 2008.

The tenant stated that on October 14, 2010, the landlord visited him and asked him to move out because she intended to rent the unit to international students. The tenant refused to agree to move out. The tenant stated that the landlord was very persistent and therefore he stepped outside the home to end the conversation. The landlord followed him outside and continued to press him for a move out date. The tenant continued to refuse to agree to move out and went back in. The landlord followed him inside and again kept asking him to move out.

The conversation got heated and the landlord's son intervened. The tenant and the landlord's son pushed each other around and were separated by another occupant of the house. Later that evening, the landlord handed the tenant a type written note asking him to move out the next day (October 15). The reason for ending the tenancy was that her relatives were coming to visit her for Christmas.

The landlord agreed that she had asked the tenant to move out because she wanted to host international students. She also agreed that she followed the tenant outside and inside the house, asking him for a move out date and then later that day served him with a notice to end tenancy for landlord use of the rental unit.

The landlord also agreed that this was the first incident of this nature involving a confrontation between the parties, since the start of tenancy in 2008.

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” .

Based on the documentary evidence and testimony of the parties, I find that the altercation was a onetime incident and that the landlord did play an active role in instigating the altercation by making unreasonable demands on the tenant and following him around. Therefore I find that the landlord has not established grounds for an extraordinary remedy such as an immediate end to tenancy. In addition the landlord was not consistent in her reasons for ending the tenancy and gave the tenant three different reasons.

1. She had intentions of keeping international students
2. Her relatives had plans to visit at Christmas
3. The tenant assaulted her son.

After the altercation, the landlord served the tenant with a notice to end tenancy for landlord use of property.

Based on the testimony of both parties I find that the landlord has not proven her case for an early end to tenancy and for the above reasons, I dismiss the landlord's application to end tenancy early.

Conclusion

The landlord's application is dismissed and she 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: October 28, 2010.

Dispute Resolution Officer