



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET, FF

Introduction

This was an application by the landlord for an early end of tenancy. The hearing was conducted by conference call. The named landlord and the tenant participated in the hearing

Issues(s) to be Decided

Should there be an early end to tenancy?

Background and Evidence

The rental unit is one of two basement suites in the landlords' house in Surrey. The tenancy started in July, 2010. There is no written tenancy agreement. The monthly rent is \$525.00 and the tenant paid a security deposit of \$250.00 at the commencement of the tenancy.

According to the parties there was a flood of sewage into a number of houses in the area when a sewer line was damaged on October 1, 2010. The tenant was away at the time. When he returned to the rental unit on October 2, 2010, the hardwood floors in his rental unit had been removed and many of his possessions taken out of the rental unit. The tenant's clothing and other belongings were wet. Someone had moved dehumidifiers into his unit. The tenant has attempted to clean and disinfect the unit with bleach. According to the landlord she asked the tenant to move out so workers can clean and disinfect the rental unit. She has applied for an early end of tenancy because the tenant has refused to move out of the rental unit. She said that the tenant has refused to let her workmen into the rental unit. According to a letter from the landlord's

contractor the tenant refused to leave the rental unit so that they could mitigate the damage.

Analysis and Conclusion

Under section 56(2)(b) of the *Residential Tenancy 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” (emphasis mine)

An early end of tenancy application is only appropriate as an alternative to a one month Notice to End Tenancy for cause where the landlord has convincing evidence to show that the tenant has conducted himself in such a way that the tenancy should end sooner than the effective date of a one month Notice to End Tenancy.

There is provision in the *Residential Tenancy Act*, by section 56.1 for a landlord to apply for possession on the ground that the tenancy agreement has been frustrated because, among other reasons, the rental unit is uninhabitable. The landlord has not applied on this ground, but even were I to treat this application as though it were brought under section 56.1, I am not satisfied that the tenancy has been frustrated. The tenant has performed cleaning and he continues to live in the rental unit; It appears that the landlord can accomplish the cleaning work in a relatively short time and may be appropriate for the landlord to arrange for the tenant to be housed elsewhere temporarily if necessary and return to the rental unit when the remedial work is complete. In the alternative the landlord may serve the tenant with a 2 month Notice to End Tenancy for landlord's use on the ground that vacant possession is required to repair or renovate the unit.

The landlords' application for an early end of tenancy is dismissed.
