



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

ET

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has made application for an Order of Possession based on an early end to the tenancy.

The male Agent for the Landlord stated that he personally served copies of the Application for Dispute Resolution and Notice of Hearing on the Tenant with the initials "B.C." on November 18, 2010. The female Agent for the Landlord stated that she observed the service of these documents.

In the absence of evidence to the contrary, I find that the Application for Dispute Resolution and Notice of Hearing have been served on the Tenant with the initials "B.C." in accordance with section 89(2)(a) of the *Residential Tenancy Act (Act)*, however this Tenant did not appear at the hearing.

In the absence of evidence to the contrary, I find that the Application for Dispute Resolution and Notice of Hearing have been served on the Tenant with the initials "L.M." in accordance with section 89(2)(c) of the *Act*, however this Tenant did not appear at the hearing.

Issue(s) to be Decided

The issue to be decided is whether the Landlord is entitled to end this tenancy early and to an Order of Possession on that basis, pursuant to sections 56 of the *Act*.

Background and Evidence

The female Agent for the Landlord stated that this tenancy began on April 01, 2010 and that the Tenants are required to pay monthly rent of \$950.00 on the first day of each month.

The female Agent for the Landlord stated that she personally served the Tenant with the initials "B.C." with a One Month Notice to End Tenancy for Cause, which has a declared effective date of November 30, 2010, on October 31, 2010. The female Agent for the

Landlord stated that she does not believe that the Tenants disputed this Notice to End Tenancy.

The female Agent for the Landlord stated that Tenant with the initials "B.C." told her that she did not intend to vacate the rental unit on November 30, 2010. The male Agent for the Landlord stated that Tenant with the initials "B.C." told him that she did intend to vacate the rental unit on November 30, 2010.

The Landlord submitted a letter from the Tenant with the initials "L.M.", dated November 12, 2010, in which the Tenant declares that she would like to move because her co-tenant is inviting drug dealers and prostitutes to the rental unit, who are selling drugs and smoking crack cocaine. This Tenant indicated that she hopes to relocate in the same building.

The female Agent for the Landlord stated that the Landlord wishes to end this tenancy, in part, because the Tenant(s) guests, who the Landlord believes are drug dealers and drug addicts, frequently visit the residential property. She stated that this causes other occupants of the residential complex to fear for their safety.

The female Agent for the Landlord stated that the Landlord wishes to end this tenancy, in part, because the Landlord believes that the Tenant(s) are allowing their guests to sell illegal drugs and to smoke crack on the residential property. She stated that this causes other occupants of the residential complex to fear for their safety.

The female Agent for the Landlord stated that the Landlord wishes to end this tenancy, in part, because the Tenant(s) or their guests frequently prop open exterior doors to grant access/egress to the Tenants' guests. She stated that this causes other occupants of the residential complex to fear for their safety.

The female Agent for the Landlord stated that the Landlord wishes to end this tenancy, in part, because the Tenant(s) or their guests have damaged the front door on numerous occasions. She stated that the front door to the residential complex has been broken several times during this tenancy and that she assumes it was the Tenants or their guests, because none of the other occupants of the complex would break the door.

The female Agent for the Landlord stated that the Landlord wishes to end this tenancy, in part, because the police attend at the rental unit on a regular basis. She stated that this causes other occupants of the residential complex to fear for their safety. She stated that the police attended the rental unit on November 13, 2010 and November 16, 2010. She stated that she does not know why the police were at the unit on those dates, although she speculates it was because of drug activity.

The female Agent for the Landlord stated that on November 21, 2010 the Tenant with the initials "L.M." borrowed her telephone for the purposes of contacting the police to remove unwanted guests from the rental unit. She stated that the police did attend at

the request of this Tenant on November 21, 2010 and that she attended later that evening, although she does not know why they attended on that date.

The female Agent for the Landlord stated that on October 31, 2010 she had an altercation with two persons who she recognized as being guests of the Tenant(s), who were attempting to block open an exterior door. She stated that later that night a window in the male Agent for the Landlord's vehicle was broken. She speculates that the Tenants' guests broke the window, although she did not witness the window being damaged nor does she know of anyone who witnessed it.

The female Agent for the Landlord stated that on November 13, 2010 two persons who she recognized as being guests of the Tenant(s) were attempting to block open an exterior door; that she attempted to stop them from blocking the door; that they swore at her and told her to watch her vehicle; that they threatened to burn down the building; and that they threw a bucket which was used to dispose of cigarettes at her feet. She stated that this causes her to fear for their safety, although she acknowledged that there has been no damage to her vehicles or the building since this altercation.

The female Agent for the Landlord stated that approximately two weeks ago they found needles inside unit #204, which is vacant. She stated that she believes that the Tenants' or their guests broke into this rental unit by climbing over the connecting balcony, as this is the only method of accessing the window that provided the perpetrator with access to unit #204, unless a ladder was used. She stated that she did not witness the entry; she did not find anyone in unit #204; and she does not know of anyone who witnessed this incident.

Analysis

Section 56(1) of the *Act* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and that a landlord may apply for an Order of Possession for the rental unit.

Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk

- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

After considering all of the evidence presented by the Landlord and in the absence of evidence to the contrary, I am satisfied that the actions of the Tenant(s) and their guests may have unreasonably disturbed other occupants of the rental unit. After considering all of the evidence presented by the Landlord and in the absence of evidence to the contrary, I am satisfied that the female Agent for the Landlord was unreasonably disturbed when she had an altercation with the Tenant(s)' guests on October 31, 2010 and November 13, 2010.

I find that the disturbances caused by the Tenant(s) and their guests are not sufficient grounds to end the tenancy early. In reaching this conclusion, I am guided by section 56(2)(b) of the *Act*, which stipulates that a tenancy should only be ended early if 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 to take effect. In these circumstances, the evidence shows that the Landlord has already served the Tenant(s) with a Notice to End Tenancy that is effective in five days.

As this tenancy is ending in five days, I find that it is reasonable for the Landlord to wait until that time to take possession of the rental unit. In the event that the Landlord does not believe that the Tenant(s) will vacate on November 30, 2010, they have the right to file an Application for Dispute Resolution seeking an Order of Possession on the basis on their One Month Notice to End Tenancy. The Tenants had the right to file an Application for Dispute Resolution seeking an Order of Possession on the basis on their One Month Notice to End Tenancy at any time after this Notice was served.

In determining that it is not 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 of the *Act* to take effect, I was strongly influenced by the absence of evidence that shows that the Tenants' guests have been charged with a criminal offence, which causes me to conclude that the altercations between the Landlord or the Tenants on October 31,

2010 and November 13, 2010 did not warrant criminal charges. In the absence of evidence that causes me to believe that the Tenant(s) and their guests will harm the Landlord or an occupant of the residential complex or that they will damage the Landlord's property, I find that this tenancy shall continue until it is ended in accordance with section 47 of the *Act*.

Conclusion

I find that the Landlord has not established grounds to end this tenancy early, pursuant to section 56 of the Act. On this basis I hereby dismiss the Landlord's application to end the tenancy early and for an Order of Possession.

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: November 25, 2010.

Dispute Resolution Officer