



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 to deal with the landlord's application for an early end to tenancy and an Order of Possession. The tenant did not appear at the hearing. The landlord testified that the tenant was personally served on November 30, 2010 with notice of this hearing and all of the evidence submitted by the landlord. The landlord testified that service of the hearing documents was accomplished by staff person that I refer to by the initials "B.J." and that service was captured on surveillance camera in the lobby of the residential property. I accepted that the tenant has been sufficiently served with the hearing documents and proceeded to hear from the landlord without the tenant present.

Issues(s) to be Decided

Has the landlord established that this tenancy should end early and an entitlement to an Order of Possession?

Background and Evidence

The landlord provided the following undisputed evidence. The landlord is a housing society. The month-to-month tenancy commenced July 1, 2010 and the tenant is required to pay rent on the 1st day of every month. Shortly after the tenancy commenced, the landlord's staff and other residents of the residential property had complained of aggressive and intimidating behaviour by the tenant. The landlord had

set up support for the tenant with a support worker; however, on November 27, 2010 the tenant physically assaulted one of the landlord's staff persons.

The landlord explained that the staff persons work alone when they are on duty and that the tenant's conduct on November 27, 2010 seriously jeopardized the health and safety of the landlord's staff.

The staff person involved in the incident on November 27, 2010 testified that the tenant grabbed a phone from the wall in the office and tried to hit the staff worker with the receiver. After the staff person stood up the tenant grabbed the staff worker by the arm and motioned closer to the staff worker. Only after another tenant intervened did the assault come to an end. The staff worker has filed a police report with respect to the incident.

Provided as documentary evidence by for this hearing were copies of: the tenancy agreement; Code of Conduct; incident report for November 27, 2010; two warning letters issued to the tenant in September 2010 and two incident reports written in August 2010. In addition, the landlord provided a video from the surveillance camera in the lobby of the residential property taken on November 27, 2010.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier than it would end if the landlord issued a 1 Month Notice to End Tenancy for Cause and obtain an Order of Possession in certain circumstances. It is not necessary for the landlord to issue a 1 Month Notice; however, the landlord must show that

(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

(i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;

- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
 - (iii) put the landlord's property at significant risk;
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) 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, or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
 - (v) caused extraordinary damage to the residential property, and
- (b) 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 [*landlord's notice: cause*] to take effect.

Upon consideration of all of the evidence before me, I am satisfied that the tenant's conduct on November 27, 2010 seriously jeopardized the health or safety or lawful right of the landlord and was illegal. I also find that the tenant's conduct was sufficiently severe that it is unreasonable or unfair to the landlord or other occupants of the property to wait for a 1 Month Notice to take effect.

In light of the above, I grant the landlord's request for an early end of tenancy and an Order of Possession. The tenancy shall end and the tenant must vacate the rental unit two (2) days after service of the Order of Possession provided to the landlord with this decision.

Conclusion

The landlord's request for an early end of tenancy and Order of Possession has been granted. The tenancy shall end and the tenant must vacate the rental unit two (2) days after service of the Order of Possession upon the tenant.

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: December 10, 2010.

Dispute Resolution Officer