



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an application by the landlord to end the tenancy early and for an order of possession. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenant was served with the application for dispute resolution and notice of hearing by registered mail. I found that the tenant had been properly served with notice of the landlord's claim and the date and time of the hearing and the hearing proceeded in their absence.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy began February 15, 2011 with monthly rent of \$850.00, the tenant paid a security deposit of \$425.00.

The landlord testified that shortly after moving into the rental unit that the tenant started to complain about the noise coming from the rental unit across the hall from him. The tenant claimed that he could feel the floor vibrate from the noise and that the noise woke him up and kept him up at night. The landlord stated that the tenant being accused of making all the noise is an elderly gentleman who is long time tenant in the building that has never had a complaint filed against him.

The landlord stated that the tenant then started to harass the elderly neighbour by putting signs with derogatory comments about the tenant, in the window facing the tenant's door. The landlord stated that the elderly tenant had become very fearful and upset due to the harassment. The tenant being harassed called the local police who attended the building, spoke to the tenant and advised him to stop harassing his neighbour.

The landlord stated that they had offered the tenant to relocate to a different apartment in the building but that the tenant refused to relocate.

The landlord stated that the tenant has since given notice that he will vacate at the end of April 2011.

Analysis

Section 56 of the Act states that a landlord may request an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given for cause under Section 47. Upon receipt of such an application, the director may make an order specifying an earlier date on which a tenancy ends and the effective date of an order of possession for the rental unit only if the director is satisfied that certain conditions exist. These conditions are listed in Section 56(2) of the Act.

In the present case the landlord has applied for an order ending the tenancy early on the basis that the tenant has been harassing his elderly neighbour. While there is evidence that the neighbour is or has been harassed by the tenant, this behaviour by the tenant would best be addressed through a 1 Month Notice to End Tenancy for Cause as the actions of the tenant are not so egregious as to warrant ending the tenancy early.

I am not satisfied, based on the evidence before me that the landlord has proved its case. Therefore the landlord is not entitled to end the tenancy early and obtain an order of possession.

The landlord's application is dismissed without leave to reapply.

Conclusion

Based on the evidence before the landlord has not proved its case therefore the landlord is not entitled to end the tenancy early and obtain an order of possession.

The landlord's application is dismissed without leave to reapply.

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: April 19, 2010

Residential Tenancy Branch