



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes OPB, FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution for an Order for Possession ending the tenancy for Tenants' breach of an agreement and to recover the filing fee for the Application.

The parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Only the evidence and testimony relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Has the Landlord established an entitlement to an order of possession for the Tenants' breach of an agreement and to recover the filing fee from the Tenants for the cost of the Application for Dispute Resolution, pursuant to Sections 47, 55, and 72 of the Residential Tenancy Act (the "Act")?

Background and Evidence

The Landlord testified that this month to month tenancy began on August 12, 1998, and monthly rent is currently \$734.00. The female Tenant testified that their actual tenancy began sixteen years ago, but that the Tenants and their family transferred to their present rental unit on the property in 1998.

The Landlord is seeking an end to the tenancy based upon a written Mutual Agreement to End a Tenancy (the "Agreement"), which was signed by all parties on January 18, 2011, for an effective move out date of April 30, 2011, at 1:00 p.m.

The Landlord submitted the Agreement into evidence. In support of the application, the Landlord testified circumstances surrounding the parties entering into the Agreement

came after the Tenants viewed a videotape which allegedly showed that the Tenants' teenage daughter's boyfriend stabbed someone on the premises and then went directly to the Tenants' rental unit. The Landlord claimed that it was directly thereafter, the police arrested the boyfriend at the Tenants' rental unit.

The Landlord testified the policy of any rental unit on their premises is that of zero tolerance for violence and that the Tenants were aware of this policy due to their signature on the policy.

The Landlord testified that after the Tenants viewed the videotape, they were willing to sign the Agreement, for an effective move out date in excess of three months, rather than the Landlord seeking an immediate end of the tenancy based on the alleged violent act.

The male Tenant testified that the Tenants were left with no choice other than sign the document or leave almost immediately. The Tenant stated that they felt pressured into signing the Agreement by the Landlord and that there was no basis for ending the tenancy.

The Tenant stated that there was no violent act by their daughter's boyfriend and that the videotape did not show a stabbing, but rather a punch thrown as the boyfriend was defending himself. The Tenant stated that the only weapon the boyfriend had was a slingshot and that he had recently been acquitted of the charges.

The Tenant testified and supplied evidence, which I have accepted, that their three children were all suffering from different special needs, and that if the Agreement was enforced, the whole family would be homeless as the Tenants have not been successful in securing other housing due to their low income and large family.

The Landlord responded, saying that even one violent act was enough for the Landlord to start the eviction process as their policy is that of crime free housing.

Prior to the conclusion of the hearing, the Landlord requested that if an Order of Possession was granted that it be made effective on May 31, 2011.

Analysis

Based on the above testimony, evidence, and on a balance of probabilities, I find as follows:

Section 44 of the Residential Tenancy Act provides for different ways a tenancy may end, with (1) (c) providing that the tenancy may end if the landlord and tenant agree in writing to end the tenancy.

The Tenants contend that they were pressured into signing the Agreement and therefore it should be cancelled and declared null and void. I am not persuaded by this argument. I find that on a balance of probabilities that the parties entered into this Mutual Agreement to End a Tenancy willingly and of their own free will and that I have no authority under the Act to cancel the Agreement. Based upon the parties' written Agreement, I therefore find that the Landlord is entitled to an Order of Possession and I **grant** the Order effective at **1:00 p.m. on May 31, 2011**.

As the Landlord was successful with their application, I award the Landlord the filing fee and grant the Landlord a monetary order in the amount of **\$50.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Landlord is granted an Order of Possession and a monetary order in the amount of \$50.00.

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, 2011.

Residential Tenancy Branch