



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code: ET

Introduction:

This is the Landlord's application for an early end to the tenancy and an Order of Possession.

Both parties signed into the teleconference and gave affirmed testimony at the Hearing.

It was established that the Tenants received the Notice of Hearing documents on July 8, 2011, and copies of the Landlord's documentary evidence on July 13, 2011.

Issue to be Determined:

Has the Landlord shown that there is cause to end this tenancy and that it would be unreasonable or unfair to wait for a one month Notice to End Tenancy under the *Residential Tenancy Act* (the "Act") to take effect?

Background and Evidence:

The Landlord's agents gave the following testimony:

The rental unit is one of 10 units in a small apartment building.

The Landlord issued a Notice to End Tenancy for Cause on June 6, 2011, a copy of which was provided in evidence.

The Landlord provided written statements from 5 other occupants in the rental property complaining about noise, illegal activity and damage to property.

The Landlord MJ spent a couple of days outside the rental unit observing comings and goings from the rental unit. The Landlord's agent believes the Tenants are selling drugs out of the rental unit. The Landlord's agent also believes that the Tenants are damaging the building by breaking windows and damaging entry ways in order to facilitate easier access to their street customers.

The Tenants gave the following testimony:

The Tenants' copies of the letters have been altered to remove the names of the complainants. The Tenants were not aware of any concerns before they received the One Month Notice to End Tenancy. The Tenant DB has been living in the rental property for 4 years.

The Tenants deny damaging the doors to the rental property. The Tenants replaced the broken windows and are doing some painting in the rental unit and believed that this satisfied the Landlord's concerns. The Tenants filed an Application for Dispute Resolution to dispute the One Month Notice to End Tenancy issued June 6th, but cancelled the Hearing because they had an agreement with the Landlord MJ that he would not be acting on the Notice to End Tenancy.

The Tenants testified that they are not selling drugs out of the rental unit. The person seen coming to the back door and giving money to the Tenant MR is his employer. The Tenant MR is a painter, is paid cash and is given the address for his next day's work at the same time.

The Tenants submit that the letters provided by the other Tenants are very vague and do not specify any particular incident or details surrounding any of the complaints with the exception of the letter from the tenant in #8. The Tenants regret the incident and have apologized to the tenant in #8. The Tenants were visited by a man who was going to pick up a TV at the rental unit. The man was very rude to the tenant in #8. The man will not be back and is not a friend of the Tenants.

The Tenants testified that the other tenants have no reason to fear the Tenants.

The Landlords gave the following reply:

The Landlords removed the names from the Tenants' copies of the letters because the other tenants are afraid of retribution from the Tenants.

The Landlord MJ does not recall coming to an agreement with the Tenant with respect to the Notice to End Tenancy issued June 6, 2011.

Analysis:

In making an application for an early end to this tenancy the Landlord has the burden of proving that there is cause for ending the tenancy early, such as unreasonably disturbing other occupants; seriously jeopardizing the health and safety or lawful right or interest of the landlord or another occupant; and placing the landlord's property at significant risk. **The Landlord must also satisfy me that it would be unreasonable or unfair to the Landlord or other occupants to wait for a one month Notice to End Tenancy for cause under Section 47 of the Act to take effect.**

I asked the Landlord's agents what had occurred between June 5, 2011, and July 8, 2011 (the date they filed for an early end to the tenancy), that escalated the matter. The Landlords did not give a satisfactory answer. The written statements of other occupants are very vague and of little probative value.

Based on the affirmed testimony of both parties and the documentary evidence of the Landlord, I find that there is **insufficient evidence that it would be unreasonable or**

unfair to the Landlord and the other occupants of the building to wait for a one month Notice to End Tenancy for cause to take effect.

It is important to note that I am not making any determination with respect to the Notice to End Tenancy for Cause that was issued on June 6, 2011, as it is not sought in the Landlord's Application for Dispute Resolution filed July 8, 2011.

Conclusion:

The Landlord's application for an early end to tenancy and an Order of Possession is dismissed.

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: July 19, 2011.

Residential Tenancy Branch