



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *ET*

Introduction

This hearing dealt with an application by the landlord pursuant to section 56 of the *Residential Tenancy Act*, for an order to end the tenancy early and obtain an order of possession.

The landlord testified that she served the tenant with the notice of hearing and application for dispute resolution on July 15, 2011, by registered mail. The landlord provided proof of service and a tracking number. The tenant did not participate in the conference call hearing. I found that the tenant had been served with notice of the landlord's claim and the hearing proceeded in the tenant's absence.

Issues to be Decided

Is the landlord entitled to end the tenancy early?

Background and Evidence

The tenancy started 24 years ago and the main tenant passed away in March 2011. Her ex husband and daughter are in possession of the home. The rental unit is managed by a property management company as the owner of the property has also passed away and the estate is in probate.

On July 15, 2011, the landlord applied for an order to put an early end to tenancy. The reason for the application was that the tenant was consistently late paying rent. The landlord has not served the tenant with a notice to end tenancy for cause. However the landlord has served the tenant with several ten day notices to end tenancy for nonpayment of rent, the last one being on March 10, 2011.

At the time of the hearing the tenant did not owe rent. The landlord filed a ledger showing dates that rent was paid and copies of ten day notices served to the tenant

Analysis

Section 56 is an extraordinary remedy that is reserved for situations in which there is a clear and present danger, or a genuine threat of imminent harm of such an extreme nature that it would warrant immediate intervention and removal of the tenant.

In addition to proving that there is cause to end the tenancy, in an application of this nature the landlord must clear a second hurdle. Under section 56(2)(b) of the Act, in order to establish a claim for an early end to tenancy, the landlord must establish that “it would be *unreasonable, or unfair* to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47” .

Based on the documentary evidence and testimony of the landlord, I am not persuaded that it would be unreasonable or unfair for the landlord to wait while a one month notice to end tenancy takes effect. While the landlord may have cause to end the tenancy, the landlord has not established grounds for an extraordinary remedy such as this. For the above reasons, I dismiss the landlord's application to end tenancy early.

Conclusion

The landlord's application 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: August 22, 2011.

Residential Tenancy Branch