

DECISION

Dispute Codes: *OPC, FF*

Introduction

This hearing dealt with an application by the Landlord pursuant to the *Residential Tenancy Act* for an order of possession pursuant to the notice to end tenancy for cause. The notice of hearing was served on the tenant in person by the landlord on August 03, 2011. Despite having been served the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was given full opportunity to present evidence and make submissions.

Issues to be decided

Does the landlord have cause to end the tenancy? Is the landlord entitled to the recovery of the filing fee?

Background and Evidence

The landlord testified that the tenancy started on November 15, 2009. The monthly rent is \$750.00 payable in advance, on the 20th of each month. The tenant paid a security deposit of \$375.00.

The rental unit is located in a duplex. The other occupant of the duplex is a long term tenant. The landlord stated that right from the start of tenancy, the tenant stored huge amounts of items in the yard. She also did not pick up after her dog and as a result the yard was filled with dog faeces. The other occupant of the duplex complained several times to the landlord about the unsafe and unsanitary condition of the yard. The landlord gave the tenant verbal warnings.

The landlord also testified that the unit was rented to the tenant and her four children, but there are a total of eight people residing in the unit. The landlord discussed the situation with the tenant. She informed him that it was a temporary arrangement but the landlord testified that at the time of the hearing, the extra occupants were still in residence.

The landlord also testified that the tenant broke a basement window to access the home. The landlord asked her to have it fixed but as of the date of the hearing, the window was not repaired.

The tenant did not pay heed to any of the verbal warnings from the landlord and therefore on June 28, 2011, the landlord served the tenant with a one month notice to end tenancy for cause with an effective date of July 31, 2011.

The notice was served for the following reasons;

1. Tenant has allowed an unreasonable number of occupants in the unit.
2. Tenant or a person permitted on the property by the tenant:
 - has significantly interfered with or unreasonably disturbed another occupant or the landlord
 - seriously jeopardized the health or safety or lawful right of another occupant or the landlord
3. Tenant has caused extraordinary damage to the property
4. Tenant has not done required repairs of damage to the unit

On July 15, 2011, an officer from the Municipality visited the unit and informed the landlord that the conditions were not acceptable and that the yard had to be cleaned up. The landlord gave the tenant one more verbal warning. The tenant did not clean up the yard and on August 03, 2011 the landlord was issued a warning letter from the Municipality. The unit had to be cleaned by August 17. The tenant made some efforts but since that date, garbage is continuing to accumulate again.

The landlord has applied for an order of possession, effective two days after service on the tenant.

Analysis

In order to support the notice to end tenancy, the landlord must prove that one or more of the reasons for the notice to end tenancy applies.

Based on the evidence and undisputed verbal testimony of the landlord, I find that by having three extra persons living in the rental unit, the tenant has allowed an unreasonable number of occupants in the rental unit and by failing to keep the yard clean and tidy, has significantly interfered with or unreasonably disturbed the landlord and other occupants and has seriously jeopardized the health or safety of the landlord and other occupants. I also find that by breaking a window and not repairing the damage, the tenant has caused damage to the landlord's property and has not done required repairs of the damage. Therefore, I find that the landlord has cause to end the tenancy and I uphold the notice to end tenancy.

Based on the undisputed testimony of the landlord, I also find that the tenant did not dispute the notice to end tenancy. Pursuant to section 47 (5) of the *Residential Tenancy Act*, if a tenant has received a notice to end tenancy for cause and does not make an application for dispute resolution within ten days after receiving the notice, the tenant is conclusively presumed to have accepted that the **tenancy ends on the effective date of the notice** and must vacate the rental unit by that date.

Therefore, I find that the landlord is entitled to an order of possession and pursuant to section 55(2); I am issuing a formal order of possession effective two days after service on the tenant. The Order may be filed in the Supreme Court for enforcement.

Conclusion

The notice to end tenancy is upheld and I grant the landlord an order of possession effective two days after service on the tenant. Since the landlord has proven his case he may retain \$50.00 from the security deposit towards the recovery of the filing fee.

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 31, 2011.

Residential Tenancy Branch