



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

Some documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for an early end to the tenancy and an Order of Possession.

Background and Evidence

The applicants testified that:

- On August 18, 2011 the tenant gave a notice to end the tenancy on September 30, 2011.
- The tenant was subsequently served with a proper notice of entry so that they could show the unit on August 27, 2011.
- When they went to show the unit they found the front door was barricaded closed, and therefore they made entry through the unlocked sliding glass door.

- Once they made entry into the rental unit, they found the door had been barricaded with heavy weights, which they believed were from the weight room in the building.
- They also discovered that there was a marijuana grow operation in the unit, and therefore they contacted the police.
- The police confiscated the marijuana plants and left a note for the tenant to contact them.
- The police could not lay charges of theft because the weights had no identifying marks on them and therefore there was no way of proving they belonged to the weight room in the building.
- They believe the tenant put the building at significant risk by having a marijuana grow operation, by leaving his balcony door unlocked so that anyone could gain access, and by barricading his door so that access was restricted in the case of an emergency.
- They are therefore requesting an early end to this tenancy and an Order of Possession for as soon as possible.

The tenant testified that:

- He did give a notice to end the tenancy on September 30, 2011 however he has attempted to rescind that notice without success.
- He believes the landlords made an illegal entry into his rental unit, as the notice of entry they gave was open ended and not specific for August 27, 2011.
- He had not barricaded his door however he did have some weights near his door which belonged to him and were not taken from the buildings weight room.
- He fails to see how there is any risk from him living in the rental unit at this time, especially since the marijuana plants have now been removed by the police.
- He is opposed to an early end to this tenancy, and in fact would still like to rescind his notice for September 30, 2011.

Analysis

An early end to a tenancy is only given in extraordinary circumstances and only when the applicant can show that situation is so extreme that it would not be reasonable to require the normal 1 clear month Notice to End Tenancy.

In this case it is my decision that the landlords have not shown that the circumstances are so extreme that it would not be reasonable to allow this tenancy to continue until September 30, 2011, the date at which it will end pursuant to the tenants notice.

The Residential Tenancy Act does allow the landlord to end the tenancy under the following conditions by giving a one month Notice to End Tenancy:

- (d) the tenant or a person permitted on the residential property by the tenant has
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property,
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant, or
 - (iii) put the landlord's property at significant risk;
- (e) the tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that
 - (i) has caused or is likely to cause damage to the landlord's property,
 - (ii) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
 - (iii) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;

The tenant has however already given a Notice to End Tenancy for September 30, 2011, and therefore although I deny the request for an early end to the tenancy, I will issue an Order of Possession based on the tenants Notice to End Tenancy.

Conclusion

The request for an early end to the tenancy is dismissed, and I have issued an Order of Possession for 1 p.m. on September 30, 2011.

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: September 08, 2011.

Residential Tenancy Branch