



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 for Dispute Resolution by the Landlord to end the tenancy early and obtain an Order of Possession.

Service of the hearing documents, by the Landlord to the Tenant, was done in accordance with section 89(2) of the *Act*, by posting them to the Tenant's door on September 13, 2011 at 5:25 p.m. in the presence of both Landlords.

The Landlord appeared at the teleconference hearing, gave affirmed testimony, was provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issue(s) to be Decided

1. Has the Landlord met the burden of proof to end this tenancy early pursuant to section 56 of the *Residential Tenancy Act* and obtain an Order of Possession?

Background and Evidence

The Landlord affirmed the parties entered into a month to month tenancy that began on May 1, 2011. Rent is payable on the first of each month in the amount of \$750.00 and on April 1, 2011 the Tenant paid \$375.00 as the security deposit. The Landlord acknowledged that she had transposed dates on the section listing when the security deposit was paid and it was paid in 2011 not 2007.

They are seeking to end this tenancy immediately because of domestic disputes between the Tenant and her male visitor. The Landlord stated that this male shows up after 11:00 p.m. and bangs on the Tenant's door, kicks their stucco building, and races his car out of the driveway so fast that they are fearful he may hurt someone. Police have been called and the Landlord has recently been told the Tenant has filed for a restraining order against this male. The Landlord stated that another tenant has moved

out because of this situation however this person was not willing to have her name listed as evidence.

The Landlord made reference to documents she provided in her evidence which included, among other things, a written statement signed by the Tenant that she would move out by July 31, 2011, and a 1 Month Notice to End Tenancy for cause which was posted to the Tenant's door on July 30, 2011.

The Landlord is concerned because this male has such a bad temper that he may hurt another tenant or one of the Landlords so she is seeking to obtain an Order of Possession for as soon as possible.

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, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the landlord's property at significant risk, and by proving 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 am not satisfied that the Landlord has met the burden of showing that it would be unreasonable or unfair for a one month Notice to End Tenancy to take effect as is required under section 56 of the *Act*. I am satisfied that there may be cause to end this tenancy pursuant to section 47 of the *Act*, however, I do not find it is unfair or unreasonable for a one month Notice to End Tenancy to take effect.

I make this finding for several reasons. First of all, I am satisfied that the Tenant or her male guest has not seriously jeopardized the health and safety of the Landlord or other occupants in a manner that requires an immediate end to a tenancy. That being said I am satisfied that the Tenant or her male guest have or is continuing to cause a loss of quiet enjoyment to the Landlords and other tenants. There is also the statement that the Tenant's male guest may have threatened another tenant however there was insufficient evidence to support this statement. Accordingly, at the time of the hearing I find that there was insufficient evidence to support the allegation that the Landlords' property or the health and safety of the Landlord and the other tenants are at significant risks to warrant an end of tenancy pursuant to section 56 of the *Act*.

The Landlord may well be able to show that there are grounds to end this tenancy pursuant to section 47 of the *Act* after service of a one month's Notice to End Tenancy;

however, I am not satisfied that the circumstances warrant an early end to the tenancy, therefore I dismiss the Landlord's application .

As the Landlords have not been successful with their application I decline to award recovery of the filing fee.

Conclusion

I HEREBY DISMISS the Landlord's application.

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 21, 2011.

Residential Tenancy Branch