



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *ET, FF*

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 also applied for the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Does the landlord have cause to end the tenancy early?

Background and Evidence

The tenancy started in August 2010. The monthly rent is \$375.00.

The tenant stated that on October 25, 2010, he was asleep in the unit when the police visited him and arrested him. The tenant had allegedly assaulted his roommate and was incarcerated until November 03. A condition of his release was that he was to have no contact with his roommate. The roommate moved out of the rental unit on November 03 and the tenant was allowed to return on November 04. The landlord stated that the roommate feared for his life and therefore moved out.

The landlord agreed that this was the first incident of this nature involving a confrontation between the tenant and another resident of the property, since the start of tenancy in 2010.

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 parties, I find that the altercation was the first incident since the start of the tenancy and that the presence of the tenant on the property does not pose an immediate threat to the safety of the other residents and the landlord. Therefore 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 upon one month’s notice, 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.

The landlord has not proven his case and must therefore bear the cost of filing this application.

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: November 14, 2011.

Residential Tenancy Branch