



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 the landlord's application for an early end of tenancy and Order of Possession. Both parties appeared at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Issue(s) to be Decided

Has the landlord established an entitlement to an order for an early end of tenancy and Order of Possession pursuant to section 56 of the Act?

Background and Evidence

The tenant has been residing in the rental unit since January 13, 2009 and currently pays monthly rent of \$750.00. The landlord recently acquired the 41-unit property. In responding to blocked drain lines in the unit below the rental unit, the landlord determined that he needed to access to the rental unit. Upon entering the rental unit the landlord discovered garbage and clutter throughout the rental unit piled as high as six feet tall. The landlord provided to photographs to demonstrate the extent of the hoard.

The landlord submitted that in order to enter the unit he had to kick the door in order to open it wide enough to enter the unit. The landlord has made this request on the basis that the hoard is a significant fire hazard and puts his property insurance coverage in jeopardy.

The landlord also submitted that the tenant had been flushing garbage down the toilet causing the drain lines to become blocked. The drain lines are shared between a number of units and the landlord provided a plumbing repair invoice dated October 30, 2011 to show the drains had to be cleaned two different times.

The tenant responded by stating she has cleaned up the unit since the landlord took the photographs. The tenant stated that she was willing to vacate the unit by December 13, 2011 if she were compensated one month's rent.

The landlord indicated that he could not put the property or his insurance coverage at risk for that length of time. The landlord requested an Order of Possession effective two days after service.

Analysis

Section 56(2) of the Act permits a Dispute Resolution Officer to make an order to end the tenancy on a date that is earlier than the effective date on a 1 Month Notice to End Tenancy for Cause had one been issued. In order to grant an order to end the tenancy early I must be satisfied that:

(a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

- (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;
 - (iii) put the landlord's property at significant risk;
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) 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
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
 - (v) caused extraordinary damage to the residential property,
- and

(b) it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] to take effect.

[my emphasis added]

The landlord bears the burden to prove the tenant has acted in such a way as to warrant an order to end the tenancy earlier than by way of a 1 Month Notice. The burden is high as this provision is intended to apply in the most severe circumstances.

Upon review of the photographs and upon consideration of the testimony of both parties I am satisfied that the tenant's actions of hoarding possessions in the rental unit has put the landlord's property at significant risk, and seriously jeopardizes the health or safety of other occupants and the lawful right or interest of the landlord. Given the volume of accumulated possessions and the significant risk placed upon the property, other occupants and the landlord's interest in the property, I am further satisfied that it is unreasonable to wait for a 1 Month Notice to take effective to end the tenancy. Therefore, I grant the landlord's request for an Order that the tenancy ends effective two (2) days after service of the enclosed Order of Possession upon the tenant.

The landlord is authorized to recover the filing fee paid for this application by deducting \$50.00 from the tenant's security deposit.

Conclusion

I order that the tenancy ends effective two (2) days after the landlord serves the Order of Possession upon the tenant. The landlord is awarded the filing fee paid for this application and is authorized to deduct \$50.00 from the tenant's security deposit in satisfaction of this award.

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 22, 2011.

Residential Tenancy Branch