



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. The tenants did not appear at the hearing. The landlord affirmed that he personally served the Application for Dispute Resolution, Notice of Hearing, and the landlord's evidence upon the female tenant on February 10, 2012 at the rental unit.

Section 89(2) of the Act determines that the landlord may leave a copy of the Application for Dispute Resolution related to a request for an Order of Possession at the tenant's residence with an adult who apparently resides with the tenant.

In light of the above, I proceeded to hear from the landlord without the tenants present as I found that in serving the female tenant with the hearing documents both tenants were sufficiently served.

Issue(s) to be Decided

Has the landlord established that the tenancy should end early and the landlord should be provided with an Order of Possession?

Background and Evidence

The tenancy commenced October 1, 2011 on a month-to-month basis. The tenants are required to pay rent of \$995.00 on the 1st day of the month.

In support of the landlord's request for an early end of tenancy and Order of Possession the landlord made the following submissions:

- The male tenant has acted aggressive towards the landlord and the landlord's contractor while attempting to make repairs to the tenants' bathroom in January 2012;
- The male tenant hit on the landlord's car windows and demanded the landlord get out of his car, causing the landlord to lock himself in the vehicle;

- The landlord fears for his safety and now attends the property only in the accompaniment of another person;
- Tenants of the three other units have complained to the landlord about aggressive, loud, and threatening behaviour of the male tenant;
- The male tenant appears to be very intoxicated when he acts aggressively;
- The police have been called because other tenants fear the male tenant but the police will not take action unless the tenant physically assaults someone;
- The male tenant shut off the electrical supply to a hot water tank in another unit;
- Since issuing a warning letter to the male tenant on January 19, 2012 the male tenant's behaviour has continued to worsen.

The landlord's contractor appeared as a witness for the landlord. The contractor testified that the male tenant's behaviour is erratic and unpredictable. One day the tenant will be nice and the contractor's experience will be positive and the next day the tenant will refuse entry and act as though he does not know the contractor. The tenant has also told the contractor that he is unqualified and told the contractor to leave the rental unit even though the job is not complete.

The landlord submitted written complaint letters he received from the occupants of the three other rental units at the residential property. All of the complaint letters convey concerns of aggressive, threatening and loud behaviour coming from the male tenant. The other tenants express fear for their own safety and their inability to enjoy their units since the tenants moved in.

The landlord also submitted a copy of the warning letter issued to the male tenant on January 19, 2012. The letter addresses the tenant's pattern of conflicts with other tenants, noise complaints, having a cat in the rental unit, and the tenant's lack of cooperation with the landlord's cooperation to make repairs to the rental unit.

Analysis

Section 56(2) of the Act permits a Dispute Resolution Officer, as delegated by the Director, 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 of cases.

Upon review of the complaint letters of the other tenants, I note that two letters are dated prior to the landlord's warning letter of January 19, 2012 and two letters are dated afterwards: on February 5 and February 8, 2012. There is another letter that is undated. The most recent letters indicate that the tenant's behaviour has worsened and has become more aggravating to the other occupants, as alleged by the landlord. I also note that the complaint letters convey a very similar pattern of behaviour of the male tenant which involves: being highly intoxicated, aggressive, threatening, disturbing, and loud. So much so that the other tenants of the property fear for their safety and some tenant has even altered her daily pattern as to avoid becoming the target of the male tenant's anger.

Based upon the above, I am satisfied the male tenant has significantly interfered with or unreasonably disturbed other occupants of the residential property. Further, I accept that the tenant's behaviour has continued or worsened since the warning letter of January 19, 2012. Therefore, I find that it is unreasonable to wait for a 1 Month Notice to take effect and I grant the landlord's application for an early end of tenancy.

With this decision, the landlord is provided an Order of Possession effective two (2) days after service upon the tenants. I order the tenancy ends and the tenants must vacate the rental unit two days after service of the Order of Possession.

The landlord is authorized to deduct \$50.00 from the tenants' security deposit in order to recover the filing fee paid for this application.

Conclusion

The landlord's application for an early end of tenancy has been granted. The landlord has been provided an Order of Possession effective two (2) days after service upon the tenants.

The landlord has been authorized to deduct \$50.00 from the tenants' security deposit to recover the filing fee paid for this 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: February 21, 2012.

Residential Tenancy Branch