



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, CNC, FF

Introduction

A substantial amount of 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 decision deals with two applications for dispute resolution, one brought by the tenant and one brought by the landlords. Both files were heard together.

The landlord's application is a request for an Order of Possession based on a Notice to End Tenancy for non-payment of rent, and a request for recovery of the filing fee paid.

The tenant's application is a request for an order cancelling a Notice to End Tenancy and a request for recovery of the filing fee paid.

Background and Evidence

The landlords testified that:

- The Notice to End Tenancy was given to the tenant because of his aggressive abusive behaviour.

- They as landlords have had to put up with ongoing and escalating abusive behaviour from the male tenant in this rental unit.
- The male tenant frequently loses his temper and becomes extremely verbally abusive swearing and yelling at the landlords.
- The male tenant displays this behaviour even in front of children and seems to make no effort whatsoever to control his behaviour.
- The female tenant never witnesses this behaviour, because the male tenant always waits until she is a way at work before verbally abusing the landlords.
- After having suffered with this behaviour for too long, they decided to verbally warn the tenant that this behaviour had to stop, and when that did not help they gave him a written warning letter.
- Rather than improving the tenants behaviour the warning letter seem to enrage him and his aggressive verbally abusive behaviour escalated.
- After a recent incident at which the RCMP had attended, the tenant came to the landlord's house pounding on the door ringing the bell incessantly and it was witnessed that he had a hammer in his hand.
- Feeling threatened by this behaviour they called the police and the male tenant was arrested.
- As a result of that arrest there is now a no contact undertaking in place and yet the male tenant continues to attempt to speak to the parties with whom he is to have no contact.
- They do not feel safe on their own property with this tenant living in a trailer on the property and in fact their children are not even able to go play outside for fear of this man.
- This is a very difficult situation because the male tenant does not work and therefore is on the property all day every day and the landlords feel like prisoners in their own home for fear of this man.

The landlords are therefore requesting that the Notice to End Tenancy be upheld and that an Order of Possession be issued.

The tenant testified that:

- She does not believe that her husband's behaviour is as bad as described by the landlords.
- If his behaviour was that abusive she questions why the landlords would on numerous occasions have come into their trailer.
- The landlords have even had her husband do some work on guitars for them.
- She has not witnessed interactions between her husband and the landlords, as she is away a lot during the day however her husband has told her that he has not been verbally abusive towards the landlords.

- She believes the landlords instigated the problems by telling the police that her husband has a handgun when in fact they have no handgun, they only have a replica gun, it is not a real firearm.
- After the incident where the police came to question them regarding a handgun, her husband was upset and went out for some time however when he returned he could not find his key to the house and as a result he had to break windows to get in.
- The windows were not broken to be malicious; they were broken simply to be able to gain access on a cold night.
- The landlords have blown these incidents out of proportion and in fact although the landlords claim that her husband has been threatening, he has not been charged with threatening he has simply been charged with mischief.
- Her husband has also told her that since the no contact undertaking has been put in place he has had no contact with any of the parties named on that undertaking.

The tenant therefore requests that the Notice to End Tenancy be cancelled.

In response to the tenant's testimony the landlords testified that:

- They reported the possibility of a handgun to the police because of the tenant's aggressive behaviour and they had no way of knowing it was not a real gun as he had never informed him that it was a replica gun, and it looked exactly like a real handgun.
- Their father had been in the tenant's trailer on numerous occasions, because he wanted to give the tenant another chance, as the tenant often came and apologized after the abusive behaviour, however the abusive behaviour continued even after the apologies.
- Further the male tenant just very recently attempted to speak to him while he was on the property, even though he is included in the no contact order.

Analysis

It is my finding that the landlords have shown that the male tenant in this rental property has been verbally abusive and aggressive towards the landlords and it is my decision that this behaviour is unreasonable.

I accept the landlord's direct testimony that they have witnessed the male tenant acting verbally abusive and aggressive on numerous occasions.

Further I find it hard to believe that the tenant would have signed a no contact undertaking if there was no good reason for contact to be limited.

I accept the landlord's testimony that the tenant has acted in the abusive, aggressive, and threatening manner and it is not reasonable for the landlords to have to live under these conditions.

Therefore I will not be cancelling the Notice to End Tenancy and this tenancy will end pursuant to that notice.

Conclusion

Tenant's application

The tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply and I order that the tenants bear their own cost of the filing fee they paid.

Landlord's application

I have issued an Order of Possession to the landlords for 1:00 p.m. on March 31, 2012 and have ordered that the tenants pay the landlords \$50.00 to cover the cost of the filing fee they paid.

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: March 12, 2012.

Residential Tenancy Branch