



Dispute Resolution Services

Page: 1

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 recovery of the filing fee.

The landlord testified that she served the tenant with the notice of hearing and application for dispute resolution on June 26, 2012 by posting it on her front door. The landlord provided a photograph as proof of service. The tenant did not participate in the conference call hearing. I found that the tenant had been served with notice of the landlord's claim and the hearing proceeded in the tenant's absence.

Issues to be Decided

Is the landlord entitled to end the tenancy early?

Background and Evidence

The tenancy started on August 01, 2011 for a fixed term of one year. The monthly rent is \$789.00 payable on the first of each month.

On June 24, 2012, the landlord applied for an order to put an early end to tenancy. The reason for the application was that the tenant had not paid rent for June 2012 and was creating noise disturbances late at night. Pursuant to complaints from other residents, the strata imposed fines on the landlord. The landlord served the tenant with notices to end tenancy for cause and for nonpayment of rent on June 19 and 18 respectively. As of the date of the hearing, the tenant had not paid rent for June or July and had not disputed either notice to end tenancy.

The landlord filed copies of the notices to end tenancy and proof of service by registered mail.

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 landlord, I am not persuaded that it would be unreasonable or unfair for the landlord to wait for the notices to end tenancy to take effect. While the landlord has reason to end the tenancy, 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.

Conclusion

The landlord’s application is dismissed. The landlord must bear the cost of filing 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: July 04, 2012.

Residential Tenancy Branch