



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Preliminary Issues

At the outset of the hearing the Tenants advised they were sitting in an advocacy office and that their Advocate had left the room. After further clarification both Tenants confirmed they were representing themselves and the Advocate would not be in attendance at the hearing.

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to end the tenancy early and obtain an Order of Possession.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. During the hearing each party was given the opportunity to provide their evidence orally and respond to each other's testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the Landlord be granted authorization to end this tenancy early and obtain an Order of Possession?

Background and Evidence

The Landlord submitted copies of the following documents into evidence: the tenancy agreement crime free addendum, May 10, 2012 and June 13, 2012 warning letters issued to the Tenants, witness statements, and information about a police file that was created June 28, 2012.

The parties confirmed they entered into a fixed term tenancy agreement that began on March 1, 2012 and is set to end February 28, 2013. Rent is payable on the first of each

month in the amount of \$775.00 and on February 20, 2012 the Tenants paid \$387.50 as the security deposit.

Police Constable (DS) submitted that he is a member of the municipal Crime Free Multi Housing Initiative (CFMHI) where he works with building managers and landlords to learn to identify issues or activities that lead towards or are indicative of criminal behaviours. This initiative was started to ensure safe environments are provided for all tenants. When confirmed that when police calls are generated to a building who is registered with the CFMHI he is notified of the file.

Police Constable (DS) confirmed there have been several calls involving these Tenants and specifically there have been six recent calls that specifically involved this rental building or the Tenants' rental unit. He confirmed there was an incident on June 28, 2012 involving the Landlord's Agent and another occupant where Tenant (DM) displayed physical behaviour that was obviously escalated by alcohol consumption. Another incident occurred July 1, 2012, again involving Tenant (DM) and alcohol consumption which came from inside the rental unit.

Police Constable (DS) stated that given his twelve years experience it is obvious that DM's behaviour has been escalating due to his alcohol consumption and there have been no signs of this behaviour slowing down. He stated that DM's behaviour is quite threatening to the other occupants and the building staff. He confirmed that Tenant (DM) has a history of becoming agitated and confrontational when dealing with Police and therefore (DM) is more likely to be more confrontational and physical with regular citizens. He stated that DM's behaviour is negatively affecting other tenant's ability to have peaceful enjoyment of the rental building.

The Tenant (DM) asked Police Constable (DS) if he had ever met him. DS responded saying that after viewing DM's photograph he recalls meeting him in the past however he did not know the specific situation when that meeting occurred. DS acknowledged again that he is notified of any police files involving this crime free building so he is kept informed on what happens at this building and in the Tenants' rental unit.

The Landlord and Agent submitted that Tenant DM's behaviour has escalated as noted by Police Constable (DS) and has reached the point where they are fearful for their staff and the other occupants. They pointed to their written submissions of the occurrence on June 28, 2012, and advised that Tenant DM was in a violent state. They are concerned that the situation could have ended horribly and based what they have learned from the constable this situation will only get worse. DM has displayed violence towards other tenants and despite their previous warnings he continues to drink alcohol.

They have been told by both Tenants that DM has been mixing prescription narcotics with alcohol which is causing these violent outbursts so they are concerned DM will become even more aggressive.

The Agent advised that on June 28, 2012 DM threatened her at least ten times. She stated she is scared to be at work, worrying if he will be coming off the elevator in a violent state. She is concerned that he will go too far next time.

The Landlord advised she is seeking immediate possession of the rental unit, or within 3 hours, as they are fearful of what may happen if the Tenants are allowed to remain in the building for several days.

The Tenants responded by stating they were both inside the rental unit June 28, 2012 and they have no recollection of any violent occurrence on that date. They mentioned they had faxed over two reference letters which were written by people who have known them for some time.

When I asked the Tenant LH about the calls to the police and the police constable's submission today she confirmed she called the police on July 1, 2012. She stated that DM had been drinking and she did not want any more alcohol that day so she wanted him to go for a walk and he refused, so she called the police. When I asked her about the other police incidents she argued that on two occasions when she called 911 for an ambulance the police attended with the ambulance.

Analysis

In making an application for an early end to this tenancy the Landlord has the burden of meeting two tests: (1) that there is cause for ending the tenancy, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the landlord's property at significant risk, and (2) that it would be unreasonable or unfair to the Landlord or other occupants to wait for a one month Notice to End Tenancy for cause under section 47 of the *Act* to take effect.

Upon careful consideration of the evidence before me I favoured the Landlord's evidence that the Tenant DM is abusive and violent when consuming alcohol and that this behaviour is escalating. I favoured this evidence because it was supported by the witness's written submissions, the oral testimony, and the Police Constable's submissions. The Tenants attempted to argue they did not leave the rental unit on June 28, 2012 and DM later confirmed he had no recollection of that date.

I find the Landlord has proven that the Tenants and/or their guests have engaged in an activity that has, ultimately caused damage to another occupant's property and seriously jeopardized the health and safety or lawful right or interest of the landlord and another occupant.

Next I have considered whether it would be unreasonable or unfair to the Landlord to wait for a one month Notice to End Tenancy to take effect. I have accepted that the Tenant and/or his guests have engaged in activity that has ultimately caused damage to another occupant's property and has seriously jeopardized the health and safety or lawful right or interest of the landlord and another occupant. Based on these conclusions I find it would be unreasonable to wait for a one month Notice to End Tenancy to take effect.

In this case the relationship is deteriorating and escalating with the possibility for the Landlord or another occupant suffering further loss, damage, or injury. Therefore, I grant the Landlord's application to end this tenancy early.

Conclusion

I hereby grant the landlord an Order of Possession effective **immediately** after it is served upon the Tenants. This Order is legally binding and must be served upon the Tenants.

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 12, 2012.

Residential Tenancy Branch