



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 an Application for Dispute Resolution by the Landlord to end this tenancy early and to obtain an Order of Possession.

The parties appeared at the teleconference hearing, gave affirmed testimony, and were given the opportunity to provide oral submissions. 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 an Order of Possession?

Background and Evidence

The Landlord submitted that he entered into a month to month tenancy with the Tenant approximately five months ago. Rent is payable on the first of each month in the amount of \$500.00 and the Tenant paid \$250.00 as the security deposit. The rental unit is a 1 bedroom self contained suite located in the basement of the house where the Landlord resides.

The Landlord advised that after the Tenant moved into the rental unit the Landlord found that the Tenant would go through periods of aggressive behaviour. He stated that usually the Tenant would take his aggression out on objects, such as when he squished the garbage can or slammed doors and the outside gate all day long.

The Landlord stated that on July 5, 2012 the Tenant became aggressive because the Landlord refused to drill holes in the door to install a broom clip/hanger. He said that he was out in his garden and when he returned he found a note taped to his door bell with the broom hanger requesting that it be installed. He said that as he was reading the note the Tenant came outside. He said he told the Tenant he would not be installing the hanger.

The Landlord said the Tenant was holding a screwdriver he followed the Landlord inside the Landlord's house yelling at him as he approached. The Landlord said he kept asking the Tenant to leave and he refused. The Landlord advised that he was concerned for his safety as the Tenant was saying things that did not make sense like "if you were a little girl you would be laying flat on the ground". He stated that the Tenant finally left and then returned shortly afterwards and began banging the screwdriver on the Landlord's sliding glass door.

The Landlord stated that he told the Tenant to stop or he was going to call the police. The Landlord called the police and after they attended the police spent a long time speaking with the Tenant. Then a nurse was brought in to meet with the Tenant after which the Tenant was taken to the hospital that same day, July 5, 2012.

The Tenant confirmed he called into this hearing from the hospital. When I asked what had transpired on July 5, 2012 the Tenant stated that the Landlord's testimony was not deniable but his interpretation was different. He stated that the Landlord was acting out of fear instead of obedience.

When speaking about his request to have the broom clip/hanger installed the Tenant stated that the Landlord misinterpreted his speech which caused the Landlord to resort to fear and not obedience.

The Tenant's Social Worker confirmed that they do not know when the Tenant will be released from the hospital. She requested that I fax a copy of my decision to her at her office so that she could assist the Tenant in contacting his family members to assist him in arranging to move his possessions. The Landlord and Social Worker exchanged phone numbers.

Analysis

Upon careful consideration of the evidence before me I find the Landlord has proven that the Tenant has engaged in an activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the property or the Landlord.

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 has engaged in activity that has adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the property or the Landlord. Based on these conclusions I find it would be unreasonable to wait for a one month Notice to

End Tenancy to take effect. The relationship is questionable given the Tenant's current medical state with the possibility for further disturbances and possible injury if the tenancy were to continue. Therefore, I grant the Landlord's application to end this tenancy early.

In making this decision I have considered that the Tenant has paid rent up to July 31, 2012; the Tenant is currently in hospital for an undetermined period of time; and the Tenant will need to arrange assistance from family and/or friends to have his possessions removed from the rental unit. Therefore, I award the Order of Possession effective July 31, 2012, at 1:00 p.m.

During the hearing I advised the Landlord he would not regain possession of the rental unit until July 31, 2012 and confirmed he was aware that the Tenant would be arranging to have other people attend the unit to remove his possessions. The Tenant's Social Worker exchanged telephone numbers with the Landlord during the hearing, and while this is not an order, I highly recommend they keep each other informed about the status of the Tenant's move in an effort to maintain the peace at the rental unit.

Conclusion

I hereby grant the Landlord an Order of Possession effective **July 31, 2012 at 1:00 p.m.** after it is served upon the Tenant. This Order is legally binding and must be served upon the Tenant.

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 18, 2012.

Residential Tenancy Branch