



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing was scheduled in response to the landlords' application for Dispute Resolution, in which the landlords have applied for an Order of Possession on an Early End to Tenancy and to recover the filing fee for the cost of the application from the tenants.

The landlords state that the application and Notice of hearing was given to the tenants in person while accompanied by the Police on August 21, 2012. The landlords appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

Are the landlords entitled to end the tenancy early and gain an Order of Possession on the basis of this application to end the tenancy early and to recover the filing fee from the tenants for the cost of this application pursuant to section 56 and 72 (1) of the *Act*.

Background and Evidence

This tenancy started on February 15, 2012. This was a fixed term tenancy for six months.

The rent for this unit is \$950.00 per month and is due on the first of each month.

The landlords testify that the tenants had been served with a One Month Notice to End Tenancy on July 22, 2012 in person. This Notice had an effective date of August 31, 2012 and gave five reasons to end the tenancy. The tenants were also served with a 10 day Notice to End Tenancy on August 06, 2012 in person and stated that the tenants owed rent

of \$950.00 for August. The tenants disputed the 10 day Notice and another hearing is scheduled to take place on or about September 06, 2012 after both the tenants and the landlords filed applications for Dispute Resolution.

The landlords have now filed an application for an early End to Tenancy. The landlords testify that the tenants have threatened the landlords and that the tenants have been smoking marijuana and cigarettes in the rental unit. The landlord asked the tenants to stop this practise and state the tenants verbally abused the landlords again.

The landlords' testify that they have had to call the police out on five occasions to deal with the tenants. The police have also been called to support the landlords when the landlords served the Notice of hearing to the tenants due to abuse received by the landlord when the male tenant threatened to punch the male landlord in the face after the landlords served the tenants with a Notice to End Tenancy. The landlords testify that the tenants have threatened the landlords with retaliation from gangs as the tenants informed the landlords that they have a relative in the Hells Angels who will "get" the landlords.

The landlords testify that the tenants have made life difficult for another tenant living in the coach house. These tenants won't let that tenant park her car in her rightful parking space and have called the police about that tenant saying they don't know who she is. The landlords testify that the tenant living upstairs moved out as she informed the landlords that the tenants living in both units on the property are a threat to both our physical and emotional well being. This email provided to the landlords from the upper tenant also describes some other activity from these tenants such as gas siphoning, items stolen from their deck and mailbox, verbal abuse, witness to drug dealings, violent outbursts, domestic abuse and marijuana and tobacco smoke entering the upper unit from the lower tenants unit. The email provided in evidence has not been sworn before a Notary and the landlords did not ask this other tenant to appear as a witness.

The landlords have provide two police file numbers one of which concerned a visit from the police after the tenants claimed their power had been turned off. The landlords testify that

the police have told the landlords not to go onto the property as the tenants are known to them and are dangerous.

Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would end if Notice to End Tenancy were given under section 47 of the *Act* and grant an Order of Possession for the rental unit if the tenant or persons 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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

In this matter, the landlords have the burden of proof and must show (on a balance of probabilities) that grounds exist to end the tenancy early. The landlords' have provided two police file numbers but no police report and have not provided any sworn witness

statements or witnesses such as one of the other tenants. The landlords have provided video recordings of the landlords serving the tenants and although the landlords have testified that in one of the recordings the male tenant threatened to punch the landlord this is not audible on the videos and the videos presented do not show any threats or violent behavior. The landlords have provided no evidence to support their claim that the tenants are using drugs on the property.

Consequently, I find that the landlords has provided insufficient evidence, pursuant to section 56 of the *Act*, to show that it would be unreasonable or unfair to the landlord to wait for a Notice to End Tenancy under section 47 of the *Act* to take effect and the tenancy may continue at this time.

Conclusion

The landlords' application for an Early End to Tenancy is dismissed without leave to reapply.

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: August 29, 2012.

Residential Tenancy Branch