



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

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 Landlord affirmed that she personally served the Tenant with the Notice of Dispute Resolution Proceeding documents on September 12, 2012 with a police escort. Based on the submissions of the Landlord I find the Tenant was sufficiently served notice of this proceeding, in accordance the Act and I continued in the Tenant's absence.

Issue(s) to be Decided

1. Should the Landlord be granted an Order to end this tenancy early?

Background and Evidence

The Landlord submitted that she entered into a fixed term tenancy agreement with the Tenant and his girlfriend which began on October 1, 2011 and is set to switch to a month to month tenancy after September 30, 2012. Rent is payable on the first of each month in the amount of \$900.00 and during October 2011 the Tenant paid \$450.00 as the security deposit.

The Landlord stated that she is fearful of the Tenant because of recent behaviors he is displaying. She noted that soon after the tenancy started there were problems with fights between the Tenant and his girlfriend. Then the girlfriend moved out in either November or December 2011 after calling 911 for assistance because the Tenant was assaulting her.

The Landlord confirmed that after the girl moved out the Tenant asked her permission to take in another roommate and he too moved out after having issues with the Tenant. The third roommate was moved into the unit without the Landlord's permission. The Landlord stated that this latest roommate had to call the police because he had money stolen and he wanted his damage deposit back. The Landlord said she was not paid a

damage deposit and that she believes the Tenant collected a damage deposit from this roommate.

When asked what has happened recently to cause her to ask to end the tenancy early the Landlord stated that the Tenant did not pay all of his September 2012 rent and he was playing his music really loud disturbing the Landlord and other occupants. The Landlord confirmed that he turned down the music after she knocked on the door and window for several minutes to wake him.

The Landlord also noted how the Tenant had fallen asleep recently with a pot of pasta burning on the stove. The Landlord was alerted to the issue because the house began to fill with smoke. She said it took her a really long time to get the Tenant awake and she was concerned that when he finally opened the door the smoke detector was not ringing. She sought his permission to have another smoke detector installed, which he agreed to. When she attended the next day with a neighbour to have the smoke detector installed the Tenant displayed belligerent behaviour and was yelling towards them. The Landlord said that she continued to speak calmly to the Tenant while he was yelling and he finally calmed down and let them access the unit to install the new smoke detector.

The Landlord confirmed that she has never issued the Tenant a written warning letter to change his unwanted behaviours nor has she issued the Tenant a 10 Day Notice for unpaid rent for the September 2012 unpaid amount. She argued that she is a senior and that she is now fearful of this Tenant because she found out he has a criminal record after she Googled his name. She is concerned that he is the cause of recent thefts in the neighbourhood and she does not want to have the police constantly attending her home to deal with him.

Analysis

In making an application for an early end to this tenancy the Landlord has the burden of proving 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 by proving 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.

I am not satisfied that the Landlord has met the burden of showing that it would be unreasonable or unfair for a one month Notice to End Tenancy to take effect. I am satisfied that there may be cause to end this tenancy pursuant to section 47 of the *Act*;

if the Tenant failed to correct the situation after being served with written notice to do so; however, I do not find it is unfair or unreasonable for a one month Notice to End Tenancy to take effect.

I make this finding for several reasons. First of all, I am satisfied that the Tenant has not seriously jeopardized the health and safety of the Landlord or other occupants in a manner that requires an immediate end to a tenancy. That being said I am satisfied that the Tenant has or is continuing to display unwanted behaviours such as falling asleep while cooking which may create a hazard; however it is not such a significant risk as to warrant the immediate end to the tenancy.

I do not diminish the fact that the Landlord is fearful of the Tenant's behaviour however this is not significant enough to warrant an early end to the tenancy. At the time of the hearing I find that there was insufficient evidence to support the allegation that the Landlord's property or the health and safety of the Landlord and the other tenants are at significant risk.

The Landlord may well be able to show that there are grounds to end this tenancy pursuant to section 47 of the *Act* after service of a one month's Notice to End Tenancy; however, I am not satisfied that the circumstances warrant an early end to the tenancy, therefore I dismiss the Landlord's application.

Conclusion

I HEREBY DISMISS the Landlord's application, 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: September 13, 2012.

Residential Tenancy Branch