



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 the landlord's Application for Dispute Resolution seeking an order of possession.

The hearing was conducted via teleconference and was attended by the landlord and the tenant.

Issue(s) to be Decided

The issues to be decided are whether the landlord is entitled to an order of possession to end the tenancy early and without notice, pursuant to Section 56 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began on July 10, 2012 as a month to month tenancy for a monthly rent of \$750.00 due on the 1st of each month with a security deposit of \$395.00.

The landlord testified they had noticed a smell of what they thought was marijuana coming from the rental unit and he called the police to have them investigate. The landlord submits the police found 327 marijuana plants in the rental unit along with lights for growing.

The tenant submits that he had a tray of marijuana seedlings similar in size to a tray you would get tomatoes in from a nursery. The tenant testified that the police removed the plants and he has disconnected his fluorescent grow light.

The landlord confirmed the police have removed the plants.

Analysis

Section 56 of the *Act* allows a landlord to request an order of possession to end the tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under Section 47 (1 Month Notice to End Tenancy for Cause) if one or more of the following applies:

- a) The tenant or a person permitted on the residential property by the tenant has
 - 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, or
 - 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 rental unit or residential property;
- b) And 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 to take effect.

I find that based on the testimony of both parties the landlord may have sufficient cause to end the tenancy, however, as the plants have been removed and the tenant has disconnected the grow light I find that the landlord has failed to establish that it would be unreasonable or unfair to the landlord to wait for a notice to end the tenancy under Section 47 to take effect.

Conclusion

Based on the above, I dismiss the landlord's Application in its entirety and find the tenancy will remain in full force and effect.

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: October 17, 2012.

Residential Tenancy Branch