



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 by the landlord pursuant to section 56 of the *Residential Tenancy Act*, for an order to end the tenancy early and obtain an order of possession. The landlord also applied for the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Does the landlord have cause to end the tenancy early?

Background and Evidence

The tenant rented the basement suite of the home on October 15, 2012. The monthly rent is \$900.00 due on the first of each month. On November 22, 2012, the landlord filed an application for an order to put an early end to tenancy.

The landlord filed statements written by neighbors which contain complaints about the behavior of the tenant. All the statements are dated November 22, 2012. The tenant stated that the package was dropped off in his mailbox the night before the hearing and therefore he did not have sufficient time to respond. The landlord argued that the evidence was handed in person to the tenant on November 22, 2012.

The landlord also filed a copy of a letter signed by the tenant on November 13, 2012 which states that the tenant promised to move out by November 21, 2012. The tenant stated that he did not sign the letter and that his signature was forged.

The landlord stated that the tenant was seen walking without clothes "outdoors" around midnight on November 14. The tenant stated that he stepped outside to place his garbage for pick up and was dressed in long johns. The letters of complaint mostly describe screaming matches between the landlord and the tenant.

The landlord also called the police on November 21 around mid morning. The tenant stated that he was at work and his girlfriend was in the rental unit asleep after a night shift.

The landlord stated that he called police because the tenant was supposed to be moving out and was not in the process of doing so. The police left after determining that the matter was under the jurisdiction of the Residential Tenancy Branch.

Analysis

Section 56 is an extraordinary remedy that is reserved for situations in which there is a clear and present danger, or a genuine threat of imminent harm of such an extreme nature that it would warrant immediate intervention and removal of the tenant.

In addition to proving that there is cause to end the tenancy, in an application of this nature the landlord must clear a second hurdle. Under section 56(2)(b) of the Act, in order to establish a claim for an early end to tenancy, the landlord must establish that “it would be *unreasonable, or unfair* to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47” .

Based on the documentary evidence and testimony of the parties, I am not persuaded that it would be unreasonable or unfair for the landlord to wait while a one month notice to end tenancy takes effect. I accept that the relationship between the parties has deteriorated which has resulted in screaming and yelling at each other but I further find that the landlord has not established grounds for an extraordinary remedy such as putting an early end to tenancy. For the above reasons, I dismiss the landlord’s application to end tenancy early.

Conclusion

The landlord’s application is dismissed and he must bear the cost of filing this application.

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: November 29, 2012.

Residential Tenancy Branch

