



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET, FF

Introduction

This hearing was scheduled in response to the landlord's Application for Dispute Resolution, in which the landlord has requested an early end of the tenancy and an Order of possession.

The landlord provided affirmed testimony that on June 10, 2013 in the driveway of the rental unit she personally served the tenant copies of the Application for Dispute Resolution and Notice of Hearing. The landlord had a witness present; her daughter's boyfriend. A letter signed by the witness, confirming service, was supplied as evidence.

These documents are deemed to have been served in accordance with section 89 of the Act, however the tenant did not appear at the hearing.

Issue(s) to be Decided

Is the landlord entitled to end this tenancy early without the requirement of a Notice to End Tenancy?

Is the landlord entitled to an Order of possession?

Background and Evidence

The tenancy commenced approximately 3 years ago. The tenant pays rent on the 1st day of each month.

The landlord submitted that the tenant had become involved in criminal activity and was attracting drug dealers to the rental unit, which is in the same building as the landlord's home.

The tenant was being threatened by drug dealers and as a result, during the 1st week of May 2013 the tenant gave notice to end the tenancy; he told the landlord he was moving out and he relinquished the keys to the rental unit.

The landlord accepted the tenant's notice, took the keys and changed the locks to the unit. The tenant had removed most of his personal property; some larger items were left and the tenant had said he would return to retrieve them.

On June 4, 2013 the tenant returned and broke into the unit; he had not been in the unit since he gave the landlord the keys. The police were called but refused to remove the tenant from the unit.

The landlord said that the tenant did not pay rent for May 2013 and that rent was not paid for June 2013. The landlord wishes to remove the tenant from the unit. The landlord believes that the threats made by guests of the tenants should result in an Order of possession for the landlord.

Analysis

I have considered the landlord's submission in relation to this tenancy and whether an early end of tenancy should be considered.

From the affirmed testimony of the landlord and, in the absence of the tenant, who was served with Notice of this hearing, I find, on the balance of probabilities, pursuant to section 44(f) of the Act that the tenancy ended no later than May 10, 2013. The tenant had not paid rent, he relinquished the keys and vacated with most of his personal property.

When the tenant returned to the unit and entered without the landlord's permission I find that entry did not reinstate the tenancy and that jurisdiction under the Residential Tenancy Act was no longer in effect.

From the evidence before me it appears that the tenant has taken illegal possession of the landlord's property. Once the tenant had relinquished the keys and the landlord accepted the tenant's notice to end the tenancy, I find that the tenancy did in fact end and that the tenant no longer had any right to possess the rental unit as a tenant. An Order of possession was not required when the tenancy ended by agreement in May 2013; as the landlord had accepted the tenant's notice.

Therefore, in the absence of a tenancy, I decline jurisdiction.

The landlord is at liberty to share this decision with any other authority that may be able to assist the landlord in obtaining possession of the property.

Conclusion

Jurisdiction is declined; a tenancy is not in force.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: June 27, 2013

Residential Tenancy Branch

