



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SKYLINE APARTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC FF

Introduction:

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act for orders as follows:

- a) An Order of Possession pursuant to Sections 47; and
- b) An order to recover the filing fee pursuant to Section 72.

SERVICE:

The tenant did not attend. The landlord provided sworn evidence that the tenant was served the Notice to end Tenancy dated May 21, 2013 by posting it on the door and personally with the Application for Dispute Resolution. There were witness statements to service provided. I find that the tenant was properly served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

The tenant was issued a Notice to End Tenancy dated May 21, 2013 for cause. Has the landlord proved on the balance of probabilities that there is good cause to end this tenancy and obtain an Order of Possession and recovery of the filing fee?

Background and Evidence:

The tenant did not attend although served with the Application/Notice of Hearing. The landlord attended and was given opportunity to be heard, to present evidence and to make submissions. The undisputed evidence is that the tenancy commenced in December 2012, a security deposit of \$500 was paid and rent is currently \$1050 a month plus \$25 parking fee.

The landlord gave notice to end tenancy to the tenant for the stated cause that the tenant or her guests had significantly interfered with and unreasonably disturbed other tenants or the landlord. In evidence are 6 police file numbers when the police were required to attend because of excessive noise. The landlord said the tenant works evenings and her sons who are 17 and 19 years old seem to invite 6 or more other guests who party and make excessive noise and sometimes there is evidence of drug

use. He said that the two older tenants upstairs are having significant problems with the noise which is so loud that it is disturbing tenants in a nearby building. In May, the sons or guests confronted the upper tenants outside and there was a physical altercation. He requests an Order of Possession to be effective as soon as possible.

In evidence are police file numbers with complaints of noise and drug use and a manager's statement saying he has had at least 6 written complaints from different units and many verbal, the lease, the Notice to End Tenancy and witness statements.

On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

I find that the landlord is entitled to an Order of Possession. The weight of the evidence is that there is sufficient cause to end this tenancy as the tenant and/or guests have significantly interfered with and unreasonably disturbed other occupants or the landlord. Also, the Tenant has not made application pursuant to Section 47 to set aside the Notice to End a Residential Tenancy and the time to do so has expired. In these situations, the *Residential Tenancy Act* provides that the tenant has been deemed to have accepted the end of the tenancy on the date set out in the Notice. An Order of Possession is issued effective two days from service.

Conclusion:

I find the landlord is entitled to an Order of Possession effective two days from service and to recover filing fees paid for this application.

I HEREBY ORDER THAT the landlord may deduct \$50 from the tenant's security deposit to recover the filing fee for this application. A balance of \$450 will remain in trust for the tenant.

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 14, 2013

Residential Tenancy Branch