



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NAROD PROPERTIES CORP.
and [tenant name suppressed to protect privacy]

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 recovery of the filing fee.

The landlord served the tenant with the notice of hearing by registered mail on September 27, 2013 and filed a copy of the tracking slip. Despite having been served with the notice of hearing, the tenant did not attend the hearing. The landlord attended the hearing and was 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 tenancy started on December 01, 2012. The monthly rent is \$850.00 and does not include utilities. The tenant failed to pay rent for September 2013. On September 09, 2013, the landlord served the tenant with a notice to end tenancy for nonpayment of rent. The landlord testified that the tenant also failed to pay his utility bills and power to the rental unit was shut off.

The landlord stated in his application for dispute resolution that the tenant has “*seriously jeopardized the health and safety of other occupants and put the landlord’s property at significant risk by building and lighting fires at the exterior of the suite for the purpose of cooking meals*”

The landlord did not file any evidence to support his testimony regarding the fires that the tenant was allegedly building to cook his meals. The only evidence filed by the landlord is a tenancy agreement, a ten day notice to end tenancy, proof of service of the ten day notice and proof of service of the notice of hearing.

During the hearing, I explained to the landlord, the significance of making an application under section 56 to put an early end to tenancy and obtain an order of possession. I

also informed the landlord that the burden of proof lies with him to prove that the tenant has given him reason to apply for an extraordinary remedy such as this.

In addition the landlord also has the burden of proving that that it would be unfair to the landlord and/or other occupants to wait for a notice to end tenancy, under section 47.

At the end of the hearing the landlord stated that in the event his application for an order of possession is denied and there is a fire caused by the tenant, he would hold the Residential Tenancy Branch and me personally responsible, for the resulting loss.

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 landlord, I find that the landlord has failed to prove that this situation is so urgent that the tenancy should be ended without notice under section 56. Accordingly, I am not persuaded that there is a threat of imminent harm of an extreme nature and that it would be unreasonable or unfair for the landlord to wait while a one month notice to end tenancy takes effect.

While the landlord may have reason to end the tenancy upon a one month notice for cause or a ten day notice for nonpayment of rent, the landlord has not established grounds for an extraordinary remedy such as this

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: October 10, 2013

Residential Tenancy Branch