



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing was convened in response to an application by the Landlord for an early end of tenancy and an Order of Possession pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The Landlord and Tenant were given full opportunity to be heard, to present evidence and to make submissions under oath.

Issue(s) to be Decided

Is the Landlord entitled to an early end of tenancy and an order of possession?

Background and Evidence

The tenancy started on October 15, 2013. The Tenant states that they will be moved out of the unit on December 16, 2013. It is noted that the Landlord earlier served the Tenant with a one month notice to end tenancy for cause, that the Tenant disputed this notice and that the dispute has been scheduled for December 19, 2013.

The Landlord states that the Tenant has caused other tenants to complain about noise from the Tenant's dogs and that the one tenant is afraid of this Tenant as the Tenant has been rude. The Landlord provides a letter from this tenant. The Landlord states that on November 1, 2013, after having served the Tenant with a 10 day notice to end tenancy for unpaid rent on this date, the Tenant came to the Landlord's premises to pay the rent and used profane language towards the Landlord. The Landlord states that the

Tenant, upon leaving the Landlord's premises also slammed the Landlord's 20 year old gate and broke it. The Landlord states that on November 3, 2013 the Tenant caused water to flood the lower unit by throwing water on the floor while waiting for the police to attend the unit. The Landlord states that there was a previous leak from the upper floor that had been repaired and that upon inspecting the lower unit, determined that the water was coming from a different location than the previous leak. The Landlord states that no inspection was made of the Tenant's unit since this incident.

The Tenant states that their dogs only bark when someone knock at the door and that within the first couple of weeks of the tenancy, the Landlord attended the unit on a near daily basis without notice and that the Tenants had to request that the Landlord not appear without notice. The Tenant states that on November 1, 2013 he had hoped to speak with the Landlord about a one month notice to end tenancy for cause that the Landlord had given the Tenants but that the Landlord refused to speak to him and told the Tenant to call the Landlord's lawyer. The Tenant states that he did not yell at the Landlord on this occasion but that he did call the Landlord a liar. The Tenant states that he has no knowledge of having broken the Landlord's gate but admits that he was angry at the time. The Tenant states that at no time did he ever pour water on the upper floor, that on this occasion he had been doing a large amount of dishes, that the police attended on this occasion and saw the unit, that the Tenant was not even aware that a flood occurred in the lower unit and that there has been no violence from this Tenant before or during the tenancy. The Tenant states that on November 3, 2013 the Landlord came to the Tenant's unit and accused the Tenant of fraud that has nothing to do with the tenancy. The Tenant states that he asked the Landlord repeatedly to leave the unit but the Landlord did not. The Tenant admits to swearing at the Landlord on this occasion. The Tenant states that he was never abusive to the other tenant and that this tenant has only been seen twice by the Tenant. The Tenant states that another tenant wrote a letter indicating that there was no problem with noise from the dogs. The Tenant states that when the police were called on November 3, 2013, the police were informed by the Tenant that the Tenant yelled at the Landlord and that the police told the Tenant that this was nothing to worry about.

The Landlord states that the actions of the Tenant have caused significant disturbance to other tenants and the Landlord and that the Tenant has put the Landlord's property at significant risk. The Landlord states that this is an emergency situation as the Landlord cannot rent the unit out while the Tenants are still occupying the unit. The Landlord states that he is afraid of the Tenant and that the Landlord does not want to bring prospective tenants to view the unit while the Tenants and their dogs are present. The Landlord states that no efforts have been made to re-rent the unit. The Landlord states that he also cannot attend the address on business with the other tenants while the tenant resides at the address. The Tenant states that their one dog is an old mutt, that the other dog is little and that neither is aggressive. The Tenant states that the Landlord has refused to speak with the Tenants, that the Tenants have never been asked about arrangements to show the unit and that if asked would make arrangements for Tenants and dogs to be away during a showing.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier than it would end if the landlord issued a 1 Month Notice to End Tenancy for Cause and obtain an Order of Possession in certain circumstances. It is not necessary for the landlord to issue a 1 Month Notice; however, the landlord must show that:

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
 - (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;
 - (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 residential property, and
- (b) 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 *[landlord's notice: cause]* to take effect.

After consideration of both Parties evidence, while I accept that the Tenant has acted angrily towards the Landlord, I find that the Landlord has acted in a manner so as to provoke the Tenant by repeatedly attending the unit without notice, refusing to leave when asked, alleging damages caused by the Tenant without investigating the Tenant's unit and by serving a notice to end tenancy on the same day that rent is due. I find that the Landlord has failed to substantiate with sufficient evidence that the Tenant's behavior is so significant or threatening to any of the other tenants or to the Landlord or that the Tenant caused extraordinary damage to the unit or Landlord's property such that the tenancy should end before the Tenant moves out on December 16, 2013. Although the Landlord argues that the Tenants' presence causes an inability of the Landlord to find another tenant due to the presence of the dogs, I do not find this to be sufficient evidence of unreasonableness or unfairness as the Landlord has provided no evidence that any arrangement for the showing of the unit has been discussed and refused by the Tenants or that the dogs are threatening to others. As a result, I find that the Landlord has not substantiated reasons to end the tenancy early and I dismiss the Landlord's application.

Conclusion

The Landlord's application is dismissed.

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: December 03, 2013

Residential Tenancy Branch

