



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 convened by way of conference call in repose to a Landlord's Application for Dispute Resolution (the "Application") to end the tenancy early and obtain an Order of Possession. The Landlord also applied to recover the filing fee from the Tenant for the cost of the application.

The Landlord appeared for the hearing with an agent who presented the Landlord's case and provided affirmed testimony during the hearing. The Landlord also provided documentary evidence prior to the hearing which was served to the tenant in accordance with the Rules of Procedure. There was no appearance by the Tenant during the duration of the hearing or any submission of evidence prior to the hearing.

The Landlord's agent testified that the Tenant was served the Notice of Hearing documents by registered mail pursuant to section 89(1)(c) of the *Residential Tenancy Act* (the "Act"). The Landlord provided the Canada Post tracking number as evidence for this method of service and testified that the Canada Post website indicated that it had been received and signed for by the Tenant the next day. Based on the undisputed evidence provided by the Landlord, I find that the Tenant was served with the Notice of Hearing documents by the Landlord in accordance with the Act.

At the start of the hearing the Landlord's agent confirmed that the Landlord had not taken a security deposit from the Tenant and felt that it was not worth pursuing the Tenant for a Monetary Order for the return of the filing fee. As a result, the Landlord's agent withdrew the Landlord's application to recover the filing fee for the cost of making the application.

In the absence of any evidence provided by the Tenant, all of the Landlord's evidence presented during the hearing was carefully considered in this decision.

Issue(s) to be Decided

Is the landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

The landlord testified that this month to month tenancy started on June 1, 2013, and rent is currently payable by the Tenant in the amount of \$650.00 on the first day of each month.

The landlord's agent testified that the Tenant had failed to pay rent for the months of December, 2013 and January, 2014, after which the Tenant indicated he was going to leave the tenancy. The Tenant complained of a sewer back up in his suite on January 3, 2014 and as a result, the Landlord called an emergency plumber to rectify the issue on the same date.

The plumber then explained to the Landlord that the basement suite, which was unfurnished, seemed to be a location where drugs were being manufactured. The plumber explained to the Landlord that during the two hours he was present for the repair he noticed at least 40 people coming and going and that it appeared to him that the Tenant is selling drugs from the rental suite.

The Landlord's agent testified that the Tenant was served with a notice to end tenancy for unpaid rent on February 4, 2014 in an effort to end his tenancy and get him out of the rental suite. After this period, the Landlord had a conversation with a police officer who indicated that the rental suite was under surveillance by the police drug team for illegal drug activity. The Landlord provided the name of the police officer who was spoken to and in support of this provided a "Freedom of Information" request from which was completed by the Landlord shortly afterwards to obtain written details of the undercover operation; this request is still in the process of being approved and completed. The police had asked the Landlord to seek the immediate eviction of the Tenant due to this problem. As a result, the Landlord made this application accordingly.

The Landlord's agent presented additional evidence to support her request for an immediate Order of Possession. The Landlord's agent provided a petition document which contained over ten signatures from neighbours within the vicinity of the rental suite. The document shows the names, address and phone numbers of the neighbours who signed the document verifying that the Tenant's were creating noise at all hours of the day with people coming and going, the property posed safety and fire concerns due to the debris created by the Tenant and his guests, and their right to quiet enjoyment of their own properties is being jeopardised by the Tenant and his activities.

The landlord's agent testified that the Landlord had been issued at least six citations, which were provided as evidence for the hearing, all related to the garbage accumulating in the car port and yard of the rental suite which was unsightly and causing a smell. One of the citations refers to the rental suite having 2 unlicensed dogs which are often loose and electrical wires running to other properties.

The Landlord provided a number of photographs of the property's exterior which indicate the accumulation and secretion of general household junk as well as photographs of the inside of the house recently taken before this hearing. The photographs inside the rental suite show a significant amount of graffiti on the walls as

well as drug paraphernalia in the form of glass pipes and plastic bottles. The Landlord's agent drew my attention to the black hose on the floor in the one of the photographs and testified that this was hooked to up a live propane tank which is a fire hazard and an issue for the insurance coverage they have for the property.

The Landlord's agent further testified that the city have designated the rental suite as a 'nuisance' property which means that from February 21, 2014 onwards, any calls to the rental suite by the city or emergency services will result in a direct charge to the Landlord in the amount of \$195.00 per call, which is an expense the Landlord cannot afford.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the Landlord when the circumstances of the tenancy are such that it is unreasonable for a Landlord to wait for the effective date of a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Section 56(2) of the Act details the circumstances under which an arbitrator may end the tenancy early as follows:

56 (2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I am satisfied by the undisputed evidence presented during the hearing by the Landlord's agent that the Tenant has significantly interfered with and unreasonably disturbed the other residents in the neighbourhood and the Landlord through the drug activities claimed by the Landlord; this is supported by the Landlord's evidence regarding their interaction with the police and their involvement in this case. I also find that the Tenant has put the Landlord's property at significant risk as evidenced by the photographs and by-law citations provided by the landlord and that the Tenant has already caused extraordinary damage to the rental suite based on the photographic evidence showing the extensive graffiti spanning the walls of the rental unit.

Based on the undisputed testimony and documentary evidence of the Landlord, and on a balance of probabilities, I accept the Landlord's evidence and I find that the tenancy should end early. Therefore the Landlord is entitled to an Order of Possession effective two days after service on the Tenant, pursuant to section 56(1)(b) of the Act.

Conclusion

For the reasons set out above, I grant the Landlord an Order of Possession effective **2 days after service on the Tenant**. This order may then be filed and enforced in the Supreme Court as an order of that court.

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: February 25, 2014

Residential Tenancy Branch

