



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an application by the landlord for an order to end the tenancy early and to recover the RTB filing fee.

Both the landlord and tenants attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

Is the landlord entitled to an order ending the tenancy early?

Background and Evidence

The parties agree the tenancy started on November 1, 2013 and the tenants are obligated to pay \$950.00 rent monthly in advance on the first day of the month.

The landlord gave evidence that she served the tenants with a 1 Month Notice to End Tenancy for Cause (the "Cause Notice") dated April 1, 2014. The tenants have applied to dispute the Cause Notice and a hearing into that matter is scheduled for June 18, 2014. The Cause Notice specifies the following reasons:

- Tenant or a person permitted on the property by the tenant has:
 - significantly interfered with or unreasonably disturbed another occupant or the landlord;
 - seriously jeopardized the health or safety or lawful right of another occupant or that landlord; and
 - put the landlord's property at significant risk.

The landlord gave evidence that she has also served the tenants with a 2 Month Notice to End Tenancy for Landlord's Use (the "Landlord's Use Notice") which has an effective date of July 1, 2014. To the landlord's knowledge, the tenants have not applied to dispute the Landlord's Use Notice.

The landlord gave evidence that her reasons for wishing to end the tenancy early were security and safety. Her evidence is that the tenants' lifestyle is not conducive to her family home. The landlord lives upstairs from the rental unit with her 17 year old daughter and 21 year old son.

The landlord gave evidence that her 17 year old daughter saw two men fighting in the driveway of the house on March 12, 2014; one man appeared to try to run over the other man with his vehicle. Asked whether her daughter had ever seen either man before, the landlord said she did not know.

The landlord gave evidence that the female tenant was reported to the police as "missing" in March 2014, and remained missing for about three weeks. She said there was a period of about three weeks commencing in late March 2014 when some unknown men in hooded sweatshirts came on to the property, apparently looking for the female tenant. She said she personally saw one man on one occasion and two men on another occasion. Also, her children saw men wearing hooded sweatshirts on the property in February and March, and the men sometimes looked in the windows of the house.

The female tenant agrees that friends of hers came to the property in March 2014 because they were concerned about her safety. Her evidence is that her visitors did not pose any harm to the landlord or property.

The landlord gave evidence that she had a conversation with the male tenant at a Starbucks in late March 2014, and the male tenant told her that the female tenant was likely being held hostage by a pimp. The male tenant agrees he had a conversation with the landlord at Starbucks, but denies that was the content of the conversation.

The landlord gave evidence that she spoke to the RCMP after the female tenant was reported missing, and the RCMP told her they suspected the female tenant was working off a debt as a prostitute. The landlord also gave evidence the RCMP told her some individuals associated with the tenants were known to police for property theft, fraud, and prostitution. She said the RCMP put her house on "hazard watch" and advised her to keep the house alarm on, lock away valuables, and not approach men coming to the house for the tenants.

The landlord also provided a printout from a website that appears to show the female tenant offering prostitution services. The female tenant gave evidence that she is not a prostitute, and did not post the webpage in question and has asked the website to remove it.

The landlord gave evidence that it has “settled down” since about April 10, 2014 and she has not seen men in hooded sweatshirts on the property since that time. The landlord’s evidence is that she is concerned about the criminal history of people who are associated with the tenants and with what the RCMP told her about the female tenant. Her evidence is that she and her children are fearful about the situation.

The female tenant gave evidence that there are no security issues and the landlord has no cause for fear about safety or security. She gave evidence that she was abducted in March 2014 by a former partner from a public location. She says the individual who abducted her did not know her home address and has since passed away.

The male tenant also gave evidence that there are no security issues regarding the rental unit or property.

Analysis

Section 56 of the Act provides that a landlord may make an application for dispute resolution to request an order ending the tenancy on a date that is earlier than the tenancy would end if notice to end tenancy were given under Section 47 [landlord's notice: cause], and granting the landlord an order of possession in respect of the rental unit.

According to Section 56(2), the landlord must prove two things to end the tenancy early. First, the landlord must prove that a cause listed in Section 56(2)(a) exists to end the tenancy. Secondly, Section 56(2)(b) provides that the landlord must prove that 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 to take effect. Section 56(2)(b) requires that the landlord prove that a particular urgency exists to end the tenancy.

I accept the landlord’s evidence that two men were fighting on the property on March 12, 2014. However, there is no clear evidence linking these men to the tenants and the incident has not been repeated.

I do not have any direct evidence from the RCMP regarding the tenants. However, I accept the landlord's evidence generally that the RCMP told the landlord something about the criminal background of people associated with the female tenant and about suspicions regarding criminal activity by the female tenant. That said, past criminal activity by tenants or by acquaintances of tenants does not provide a cause for eviction in itself. Similarly, police suspicion regarding criminal activity by a tenant does not in itself provide a cause for eviction.

The landlord has not provided evidence that shows there is a specific threat to any person or to the landlord's property. I find that the landlord has not proven that any particular urgency exists to end the tenancy. For that reason, I find it is not unreasonable or unfair to the landlord or other occupants of the residential property to wait for an arbitrator's decision following the June 18, 2014 hearing into the Cause Notice.

Since I have found that the Section 56(2)(b) test is not met, I have not considered whether cause exists to end the tenancy pursuant to Section 56(2)(a) or Section 47(1). Since the Section 56(2)(b) test is not met, I dismiss the landlord's application for an order ending the tenancy early.

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: May 23, 2014

Residential Tenancy Branch

