



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing convened pursuant to the landlord's application to end the tenancy early and obtain an order of possession. The landlord and the tenant participated in the teleconference hearing.

At the outset of the hearing, the tenant confirmed that he had received the landlord's application and evidence.

The landlord submitted a video disc that the tenant was able to view, but I was not. I informed the parties that I would make further attempts to view the disc. After the teleconference hearing concluded, I made several attempts to view the disc on various systems and was unable to open and view the disc contents. I therefore did not admit or consider the video evidence. The landlord and the tenant agreed that the video showed a marijuana grow-op, and they each gave testimony regarding the grow-op.

I have reviewed all testimony. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is there sufficient evidence to end the tenancy early and grant the landlord an order of possession?

Background and Evidence

The tenancy began on December 15, 2013.

On June 27, 2014 the landlord applied to end the tenancy early. The landlord stated that on June 25, 2014 she attended at the rental property to inspect the back deck. The

landlord stated that at that time, she noticed an open shed that contained a grow-op. The landlord stated that she called the police, and there are now charges pending against the tenant. The landlord stated that the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord and engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of the landlord.

The tenant stated that there is a grow-op on the property, but the landlord is operating the grow-op. The tenant submitted that the narration in the landlord's video sounded scripted and in the video the landlord shows clear narration of the plant growth cycle. The tenant questioned why the landlord would inspect the deck in June when the tenant built it in February.

Analysis

Under section 56 of the Act, the tenancy may only be ended early if the landlord provides sufficient evidence that the tenant has

1. significantly interfered with the landlord or another occupant of the residential property;
2. seriously jeopardized the health or safety or lawful right or interest of the landlord or another occupant;
3. put the landlord's property at significant risk;
4. engaged in illegal activity that
 - a. has damaged or is likely to damage the landlord's property,
 - b. has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or
 - c. has jeopardized a lawful right of another occupant or the landlord; or
5. caused extraordinary damage to the residential property

AND it would be unreasonable or unfair to the landlord or other occupants to wait for a notice to end tenancy for cause to take effect.

Upon consideration of the evidence, I find that the landlord has failed to provide sufficient evidence to establish that the tenant has acted in a manner such that the tenancy should end early.

I find it is possible that the tenant is operating an illegal marijuana grow-op; however, the landlord has failed to provide sufficient evidence to establish that the tenant has seriously jeopardized the health or safety or lawful right or interest of the landlord by

doing so. I am confident, based on the descriptions of the landlord and the tenant, that even if I were able to view the landlord's video, I would not find evidence of how the grow-op seriously jeopardized the health or safety or lawful right or interest of the landlord.

In regard to the alleged cause that the tenant has engaged in the illegal activity has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant, I note that this section of the Act does not apply to the landlord.

The landlord has not provided sufficient, clear evidence to establish adequate cause to end the tenancy under section 56. I therefore dismiss the landlord's application.

As the landlord's application was unsuccessful, she is not entitled to recovery of the filing fee for the cost of her 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: July 14, 2014

Residential Tenancy Branch