



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with the landlord's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order ending the tenancy earlier than the tenancy would end if a notice to end the tenancy were given under section 47 of the Act.

The landlord attended the telephone conference call hearing; the tenant did not attend.

The landlord testified that he served the tenant with the Application for Dispute Resolution and Notice of Hearing by attaching the documents to the tenant's door on July 4, 2014. The landlord stated that another tenant living at the residential property observed the tenant in the rental unit as late as July 7 and that the documents had been removed from the door.

Based upon the submissions of the landlord, I find the tenant was served notice of this hearing in a manner complying with section 89(2) of the Residential Tenancy Act and the hearing proceeded in the tenant's absence.

The landlord was provided the opportunity to present evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Should the tenancy end early and an Order of Possession be granted to the landlord?

Background and Evidence

The landlord submitted that this tenancy began on July 1, 2012, for a monthly rent of \$1250.

In support of his application, the landlord testified that the tenant has put the landlord's property at significant risk and engaged in illegal activity that has jeopardized or is likely to jeopardize a lawful right or interest of the landlord.

In explanation, the landlord submitted that due to the tenant's activities, the police have been called to the rental unit numerous times in recent months and that an active police investigation is ongoing; however, the landlord said due to the privacy concerns, he is unable to obtain the records of the police.

The landlord submitted that on June 26, 2014, the police forcibly entered into the rental unit searching for the tenant. In response to my question, the landlord said the door is still in place and confirmed that he had not supplied a photo of the door.

The landlord submitted that in April 2014, a person of questionable character illegally entered the rental unit, and that the neighbours in recent months have noticed frequent brawls between the tenant and her boyfriend. The landlord submitted he understood drugs were involved.

The landlord submitted that on June 18, 2014, the tenant was observed breaking into the laundry room at the residential property by removing the plywood.

The landlord submitted that the other tenants in the residential property are fearful of their safety due to the tenant's activities.

The landlord provided the other tenant's statement.

The landlord's witness, who is a neighbour, testified that she observed the tenant removing plywood to break into the laundry room provided at the residential property and smashing the main wall to the laundry room. The witness further stated that the tenant and her boyfriend had engaged in loud fights, causing disturbance to the neighbours and the neighbourhood.

Analysis

I deny the landlord's application as I find that the landlord has not met the test required under section 56 of the *Act* to end this tenancy early.

Section 56 of the *Act* is an extraordinary remedy which grants the Director authority to end a tenancy without a notice of end tenancy if sufficient cause is established and the landlord demonstrates that it would be both unfair and unreasonable to allow the tenancy to continue until a one month Notice to End Tenancy under section 47 would take effect.

I find that all the stated reasons for an early end to the tenancy brought forward by the landlord can be addressed by issuing a notice under sections 47 of the *Act* and then filing an application for Dispute Resolution based on this notice.

In reaching this conclusion, I find that the landlord has recounted that the alleged disturbances by the tenant having been ongoing since April 2014, with no action by the landlord. Again June 18, 2014, the landlord claimed the tenant broke into the laundry room, yet he did not file his application seeking to end the tenancy early until July 4, 2014, which I find fails to prove that urgent circumstances existed.

Additionally, I find the landlord has failed to prove the nature of the police activity as it directly relates to the conduct of the tenant, or the results of any police investigation. The landlord was at liberty to apply for a summons to obtain police reports or an officer's attendance.

I also considered that the witness' testimony shows that the alleged disturbing activities have been ongoing for several months, which I find again shows the lack of an urgent nature of the activity.

It was also not made fully clear why the tenant would need to break into a laundry room if such laundry room was the tenant's use.

Due to the above, I find the landlord has not provided any compelling evidence or reasons to demonstrate that it would be unreasonable or unfair to the landlord to wait for a notice or hearing for Dispute Resolution under section 47 to take effect. As a result, I dismiss the landlord's application, without leave to reapply.

Conclusion

I have dismissed the landlord's application without leave to re-apply as I have determined that the landlord has not demonstrated that it would be unfair or unreasonable for the landlord to wait for a notice to end tenancy to take effect under sections 47 of the *Act*.

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* and is being mailed to both the applicant and the respondent.

Dated: July 18, 2014

Residential Tenancy Branch

