



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This is an application filed by the landlord for an early end to tenancy and to obtain an order of possession.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing package, I am satisfied that both parties have been properly served.

The landlord has submitted 3 documentary evidence packages consisting of 3 photographs and 1 hand written statement. The tenant has not submitted any documentary evidence and states that he has not received any evidence from the landlord. The landlord states that she is unsure of the date of service, but that the documents were served with a witness, L.M., but is not able to provide any supporting evidence for service. I find that as the tenant has disputed the landlord's claim of service of documentary evidence and the landlord is unable to provide sufficient details to satisfy me that service was properly made, that in the interest of fairness, the landlord's documentary evidence is excluded and may not be considered for this hearing.

Issue(s) to be Decided

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

Background and Evidence

The landlord stated in her direct testimony that the tenant is interfering and disturbing another occupant by stealing a wallet and clothes from a roommate, put the landlord's property at significant risk by parking a shopping cart in the emergency stairwell blocking access and engaging in illegal activity that has affected the quiet enjoyment, security, safety or physical well being of another occupant by actively selling drugs in the rental unit. The landlord states the tenant, "is selling morphine (provided by ministry of social services. Uses heroin and moved in a female heroin addict with 2 dogs in ste. For a couple of weeks. Cigarette burns on carpet, stole wallet from ...another occupant. Stole his fob entry key leaving garbage and shopping cart in stairwell. Fire hazard."

The tenant disputes these claims stating that he has two witnesses that can support his claim that he is not responsible for these issues and that he is not selling drugs nor has he stolen anything from the other occupants.

Analysis

Section 56 of the Residential Tenancy Act states, a landlord may make an application for dispute resolution to request an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 and grant the landlord an order of possession only if satisfied, in the case of a landlord's application the tenant or a person permitted on the residential property by the tenant.

The onus or burden of proof lies with the party who is making the claim. In this case it is the landlord. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. In this case, I find that the landlord has failed to provide sufficient evidence to satisfy me that the tenant has interfered with or disturbed another occupant, put the landlord's property at significant risk or engaged in illegal activity that has affected the quiet enjoyment, security, safety, or physical well-being of another occupant. Moreover, the landlord has failed to provide any details of how it would be unreasonable or unfair for the landlord or other occupants of the rental unit to wait for a notice to end tenancy issued under section 47 by the landlord. The landlord's application is dismissed.

Conclusion

The landlord's application for an early end to the tenancy 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: August 29, 2014

Residential Tenancy Branch

