



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding YUE-QING YANG
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

This matter dealt with an application by the Landlord for an early end to the tenancy, an Order of Possession and the recover the filing fee.

The Landlord said she served the Tenant with the Application and Notice of Hearing (the “hearing package”) by posting it on the door of the Tenant’s rental unit on August 14, 2014. Based on the evidence of the Landlord and the confirmation of receipt of the package by the Tenant, I find that the Tenant was served with the Landlord’s hearing package as required by s. 89 of the Act and the hearing proceeded with all parties in attendance.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy early?

Background and Evidence

This tenancy started on July 4, 2014 as a fixed term tenancy with an expiry date of December 31, 2014. Rent is \$550.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$300.00 on July 4, 2014.

The Landlord said she has received many complaints about the Tenant and his girl friend from the other tenants in the rental complex. The Landlord said the complaints started in mid July, 2014 and continued until the end of August, 2014. The Landlord said the Tenant had his girlfriend living in the room he had rented which is a breach of the tenancy agreement. The tenancy agreement only allows for one person to live in the rental unit. The Landlord continued to say the Tenant and his girlfriend stayed up very late and in some cases passed 4:00 am and they played loud music and had loud arguments. As well the Landlord said she believed the Tenant’s girlfriend was conducting prostitution activities out of the rental unit which resulted in strange men coming in the building throughout the night. The Landlord said she talked to the Tenant

to stop making noise after 9:00 p.m., to stop the arguing and to stop the other activities on at less 5 occasions. The Landlord said she also told the Tenant to have his girlfriend move out immediately. The Landlord said she finally wrote a warning letter on these issues to the Tenant on August 6, 2014. The Landlord said the Tenant said he would have the girlfriend move out and he too would move out but neither of these things has happened and the Tenant is still disturbing the other tenants and the Landlord. The Landlord said she is requesting an Order of Possession for as soon as possible to end the tenancy on the grounds that the Tenant has unreasonably disturbed the other tenants and the Landlord.

The Tenant apologised for the disturbances that he has caused and he said that his girlfriend has moved out as of August 20, 2014 and that he had corrected the situation. The Tenant said there had been no disturbances since the girlfriend moved out. The Tenant said that he would prefer to continue the tenancy but he would move out if he had a reasonable amount of time to move.

The Landlord said she did not want to continue the tenancy and she called her witnesses:

Witness G.S. said he complained to the Landlord many times about the Tenant having loud and aggressive arguments between midnight and 4:00 a.m. The Witness said there were many night that he could not sleep. As well the witness said that he saw the Tenant's girlfriend in the rental unit on the week end of August 23, 2014, which is after the Tenant said she moved out of the unit.

The Tenant asked the Witness if the situation had improved over the last week. The Witness G.S. said it had improved.

The Landlord asked the Witness how the Tenant had disturbed him. The Witness G.S. said he was unable to sleep in his unit because of the noise the Tenant and his girlfriend were making at all hours of the night.

Witness P.R. said he complained to the Landlord on many occasions between mid July and the end of August about the Tenant and his girlfriend arguing late at night, loud music and door slamming. The Witness P.R said he lost a lot of sleep because of the Tenant and his girlfriend were making noise most of the night on many occasions. As well the Witness P.R. said the Tenant let in strange men to the rental complex late at night up to 4:00 a.m. so that he was nervous to use the bathroom as the bathroom was shared by the tenants. The Witness continued to say that he also found blood in the bathroom and he was concerned with the hygiene of the room. The Witness P.R. said he stopped using the washroom in the rental unit and used the bathrooms in the gas station and coffee shop down the road.

The Tenant asked the Witness P.R. if he was scared to use the wash room because of the strangers in the rental complex or because he had a confrontation with the Tenant. The Tenant asked the Witness if he was just trying to avoid the Tenant. The Witness

P.R. said it was because of the strange men in the rental complex and the blood in the washroom. The Tenant asked the Witness if the blood could be a result of his girlfriend's menstruation. The Witness said he thought the blood was not from a pad because it was not only in the garbage can. The Landlord said she did not think the blood was from the Tenant's girlfriend's menstruation because she saw no pads. The Witness P.R. said he has lost sleep and has been disturbed by the Tenant.

The Tenant apologised to the Witness P.R. for disturbing him. The Tenant asked the Witness P. R. if things had been better in the last week. The Witness said yes but he had seen the girlfriend in the unit on August 23 or 24 and had heard her on August 27, 2014.

Witness A.M said he had been woken up many nights by the Tenant playing loud music, arguing with his girlfriend and because the Tenant used a blender late at night. The Tenant apologized to the Witness A.M. for disturbing him, and then asked the Witness if things had improved over the last week. The Witness said yes he had not been disturbed over the last week, but he did see the Tenant's girlfriend in the unit on August 23, 2014.

The Landlord asked the Witness A.M. if he had seen strangers in the rental complex. Witness A.M. said yes there were strangers in the rental complex late at night last week.

Witness M.G. said he had complained to the Landlord that there were strangers in the rental complex late at night and he was afraid of strange people having access to his home. The Witness M.G. said he overheard the Tenant's girlfriend saying that she would make money by prostitution so that they would have money for drugs. The Landlord said the Tenant and his girlfriend are drug addicts. The Arbitrator told the Landlord that personal attacks were not allowed in the hearing. The Landlord said she understood.

The Tenant asked the Witness when the last time he was woken up by noise the Tenant was making. The Witness said he thought it was around August 12, 2014.

The parties were offered an opportunity to settle the dispute on their own terms. The Tenant said he would move out on September 17, 2014. The Landlord declined the Tenant's offer and requested an Order of Possession for as soon as possible.

The Tenant said in closing that he apologizes for the disturbances that he and his girlfriend have caused, but he thinks he has corrected the situation now and he would like to continue the tenancy for a while.

The Landlord said the Tenant has made these promises before and he does not keep them. The Landlord continued to say the Tenant had many warnings both verbal and written and he continued to disturb all the witnesses that testified today. As well the Landlord said the Tenant has agreed and apologized to all the witness for disturbing them. The Landlord said she wants to end the tenancy as soon as possible.

Analysis

Section 56 of the Act says a Landlord may make an application to request an order to end a tenancy early if the Tenant significantly interfered with or unreasonable disturbs other occupants or the landlord, seriously jeopardizes the health or safety of other occupants or the landlord, put the landlord property at significant risk, jeopardizes the lawful right of other occupants, caused extraordinary damage to the property or that it would be unreasonable or unfair for a landlord or other occupant to wait for a notice to end tenancy.

It is apparent from the testimony and evidence that there are issues between the Tenant and the Landlord. Section 56 of the Act uses language which is written very strongly and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant, or put the landlord's property at **significant** risk. Or that it would be **unfair** for a landlord or other occupant to wait for a notice to end tenancy.

In this case the Landlord has provided affirmed testimony and affirmed witness testimony from 4 witnesses who are tenants that have been disturbed by the Tenant. As well the Tenant agreed and apologized for disturbing the witnesses and the Landlord. The Tenant also said he corrected the situation by having his girlfriend move out on August 20, 2014, but all the witnesses and the Landlord have seen the girl friend in the rental unit after August 20, 2014 therefore I find the Tenant has not corrected the situation. I accept the Landlord's testimony and the testimony of the witnesses that the noise and by letting strangers into the rental complex late at night has created a situation that has reached the level of **unreasonableness, significance or seriousness as defined by section 56 of the Act**. As well it would be **unfair** to require the Landlord to wait for an effective vacancy date on a 1 Month Notice to End Tenancy for Cause as the disturbance caused by the Tenant and the Tenant's girlfriend may reoccur at any time. I award the Landlord an Order of Possession effective 2 days after service of the Order on the Tenant.

As the Landlord has been successful in this matter I order the Landlord to retain \$50.00 from the Tenant's security deposit in order for the Landlord to recover the filing fee for this proceeding.

Conclusion

The Landlord's application for an early end to tenancy is granted.

I find, pursuant to section 56 of the Act, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and the Order may be filed in the Supreme Court and enforced 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: September 02, 2014

Residential Tenancy Branch

