



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 an order to end the tenancy early and an Order of Possession under section 56 of the Act. The tenant did not appear at the hearing. The male landlord testified that he served the tenant with the Application for Dispute Resolution and evidence in person at the rental unit on October 7, 2014 in the presence of a witness. The landlords also provided a signed statement from the person who witnessed the service of the hearing documents. I was satisfied the tenant has been notified of this proceeding and I continued to hear from the landlords without the tenant present.

I noted that the tenancy agreement was signed by two co-tenants and named a third occupant; yet, the landlords had named only one tenant in filing this Application for Dispute Resolution. The landlords explained that the female co-tenant and the occupant already moved out of the rental unit. The landlords had also provided a handwritten statement dated October 3, 2014, purportedly from the female co-tenant, indicating she wishes to end the tenancy as the male co-tenant assaulted and threatened her. I was satisfied that the female co-tenant is no longer occupying this rental unit and that it is appropriate to name only the male tenant.

Issue(s) to be Decided

Have the landlords established that that this tenancy should end early and be granted an Order of Possession under section 56 of the Act?

Background and Evidence

The tenancy commenced September 17, 2014 and rent is payable on the 17th day of every month. The rental unit is a condominium in a strata building. The rental unit had been occupied by the two co-tenants and a third female occupant.

On September 28, 2014 the male tenant assaulted and threatened to physically harm the female co-tenant and the female occupant of the rental unit. The police were called and the landlord provided the police file number. The female co-tenant and occupant moved out of the rental unit as a result of this incident.

On October 4, 2014 the neighbours living in the unit below the rental unit reported to the landlords that in the very early morning hours of October 4, 2014, between the hours of 1:30 a.m. and 5:30 a.m., there were sounds of a fight between two males in the rental unit, debris was thrown from the balcony of the rental unit on to the balcony below and on the common grounds; followed by yelling between people on the common property and in the rental unit. The police were called again.

The landlords also testified that the rental unit was inspected and they found a hole in the bathroom door.

The landlords also suspect that the tenant has permitted other people to move into the rental unit, contrary to their agreement.

Given the repeated violent behaviour of the tenant or persons he has permitted in the rental unit, the landlords fear the rental unit will be further damaged and other occupants will be unreasonably disturbed and/or their safety threatened if the tenancy continues. The landlords requested an immediate Order of Possession.

As evidence for this proceeding, the landlords provided statements of the co-tenant and occupant as to the assault and threats of violence; as well as, a statement from the neighbour living in the unit below to describe the events of October 4, 2014. The landlords also provided photographs of the hole in the bathroom door and a copy of the tenancy agreement.

Analysis

Under section 56(2) of the Act, an Arbitrator, as delegated by the Director, may make an order to end the tenancy on a date that is earlier than the effective date on a 1 Month Notice to End Tenancy for Cause had one been issued. In order to grant an order to end the tenancy early I must be satisfied that:

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
 - (iii) put the landlord's property at significant risk;
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
 - (v) caused extraordinary damage to the residential property,
- and

(b) 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 [landlord's notice: cause] to take effect.

[my emphasis added]

The landlord bears the burden to prove the tenant has acted in such a way as to warrant an order to end the tenancy earlier than by way of a 1 Month Notice. The burden is high as this provision is intended to apply in the most severe circumstances.

Based upon the undisputed evidence before me, I am satisfied that the tenant and/or the persons the tenant has permitted on the property, have engaged in violent behaviour that has damaged the property; and, unreasonably disturbed and jeopardized the lawful rights of other occupants of the residential property. I also find that the repeated violent behaviour over a short time period is sufficient for me to conclude this sort of behaviour is likely to reoccur should the tenancy continue. Therefore, I grant the landlord's application and I order that this tenancy shall end immediately upon service of the Order of Possession that is provided to the landlords with this decision.

Upon receipt of the Order of Possession, the tenant must immediately vacate the rental unit and return vacant possession to the landlords. The tenant must also return all keys and means of access to the rental unit and residential property to the landlords.

Conclusion

The tenancy shall end immediately upon service of the Order of Possession upon the tenant and the tenant shall return vacant possession of the unit to the landlords. The landlords have been provided an Order of Possession that is effective immediately upon service that may be enforced at any time after it is served upon the tenant.

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: October 23, 2014

Residential Tenancy Branch

