



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sterum Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET, FF

Introduction

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

Both parties attended the hearing by conference call and gave testimony. Neither party submitted any documentary evidence. The landlord states that the tenant was served with the notice of hearing package by Canada Post Registered Mail on November 18, 2014 and has provided a copy of the Customer Receipt Tracking number as confirmation.

Issue(s) to be Decided

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

Background and Evidence

The landlord has stated that the tenant has caused undue stress, concerns and health and safety issues by allowing son to take residence in the unit. The tenant's son has been removed from the building 3 times in one month by police and that the last time was with handcuffs and police in full gear with swat assistance.

The tenant disputes all of the claims made by the landlord. Both parties have confirmed in their direct testimony that the landlord has also served the tenant with a 1 month notice to end tenancy issued for cause.

Analysis

Section 56 of the Residential Tenancy Act states,

Application for order ending tenancy early

56 (1) A landlord may make an application for dispute resolution to request an order

(a) 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 [*landlord's notice: cause*], and

(b) granting the landlord an order of possession in respect of the rental unit.

(2) The director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application,

(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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

The landlord has claimed that the tenant's son has caused undue stress, concerns and health and safety issues by allowing son to take residence in the unit. The tenant's son has been removed from the building 3 times in one month by police and that the last time was with handcuffs and police in full gear with swat assistance. The tenant has disputed these claims made by the landlord. The landlord has not provided any evidence to support his claims.

The onus or burden of proof lies with the party who is making the claim. In this case it belongs to 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. As well, the landlord has failed to provide any evidence of why it would be unreasonable or unfair to the landlord to wait for the notice to end tenancy under section 47 to take effect. As such, I find that the landlord has failed to establish a claim for an early end to the tenancy under Section 56 of the Act. The landlord's application is dismissed.

Conclusion

The landlord's application for an early end of 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: November 26, 2014

Residential Tenancy Branch

