



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

Dispute Codes ET, FF

Introduction

This is the Landlord's Application for Dispute Resolution, seeking an order to end the tenancy early and be granted an order of possession.

The landlord attended the hearing. As the tenants did not attend the hearing, service of the Notice of a Dispute Resolution Hearing (the "Notice") was considered.

The Residential Tenancy Branch Rules of Procedure states that each respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The landlord testified the Application for Dispute Resolution and Notice of Hearing were served in person on November 16, 2014. I find that the tenants have been duly served in accordance with the Act.

Issues to be Decided

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

Background and Evidence

The landlord's agent stated that the tenants have been residence in the building for approximately 5 years. However, they have only been their tenants for approximately 2 years.

The landlord's agent stated that they have served the tenants with a 1 Month Notice to End Tenancy for Cause, issued on November 14, 2014, with an effective vacancy date of December 31, 2014. The agent stated the tenants did not dispute the notice.

The landlord's agent stated that although the tenancy is ending on December 31, 2014, they seek to end the tenancy earlier, as they have received letters from the strata that the tenants have caused: noise disturbances, left garbage in the hallway, left open water running in the rental unit causing damage, left a burning candles in the hallway, asked another tenant for money and damaged two cars by spray painted.

Filed in evidence are letters from the strata ranging from October 22, 2014 to November 26, 2014 alleging strata bylaw infractions:

1. 7 letters related to violating a strata appearance bylaw;
2. 1 letter is for violating a strata window covering bylaw;

3. 2 letters are related for the same incident of noise disturbance;
4. 1 letter for smell of smoke in the hallway;
5. 2 letters for writing on the walls with chalk;
6. 1 letter for emergency flood, charging cost to landlord;
7. 1 letter for interfering with the fire exit door by tying a cord.

The landlord's agent stated that they did not speak to the tenants regarding the smell of smoke in the hallway.

The landlord's agent stated that the tenants purposely left the laundry water tap running causing damage to two other units in the building.

Filed in evidence is a copy of the strata letter dated November 21, 2014 and an invoice. The invoice indicated the work order was an emergency after hours service request, which indicated there was a blocked drain, the report further indicates that there is a technician report attached to the invoice. No technician report was filed in evidence.

The landlord's agent stated that they talked to the tenants regarding the writing on the wall with chalk and the cord that was tied to the fire exit door and connected to the tenant's unit door, and the tenants denied both of these allegations.

The landlord's agent stated that the tenants have also caused damage to two cars by spray painting and were arrested. The agent was unable to provide dates or any other particulars regarding this alleged incident.

The landlord's agent stated that the strata had hired a security guard as they are fearful of the tenants, due to the above incidents and the tenants have threatened to burn the building down. However, no witness attended to provide any testimony to the above alleged incidents.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Section 56 of the *Act* allows a tenancy to be ended early without waiting for the effective date of a one month notice to end tenancy if there is evidence that the tenant has breached their obligations under the tenancy agreement or *Act* and it would be unreasonable or unfair to wait for the effective date of a one month notice to end tenancy.

In this case, I find the landlord has failed to provide sufficient evidence that it would be unfair or unreasonable to wait for the effective date of 1 Month Notice to End Tenancy for Cause, for the following reasons.

Although the strata has sent letters relating to strata appearance bylaws, which allege garbage left in hallway including a burnt t-light, improper window coverings, nuisance for excessive noise, smell of smoke and use chalk on a wall. I find even if these were causes to end the tenancy under section 47 of the *Act*, I find they are not significant enough to end the tenancy earlier under section 56 of the *Act*, there was no evidence in the strata letter that the burnt t-light was burning as suggested by the landlord.

In this case, the landlord is alleging the tenants caused damage to two other units by purposely leaving the laundry water tap running, however, the only evidence presented was a letter from the strata and an attached receipt. The letter provides no details and in fact the receipt indicates the cause was from a blocked drain. There was no evidence presented, such as the missing technician's report to support that the damage was purposely caused by the tenants.

While, I find the incident of tying a cord around the fire exit door to tenants' door concerning, as both doors would be compromised should a fire occur. However, the landlord spoke to the tenants about this incident and the tenants denied tying the cord to the doors. I find the landlord has not provided any evidence, such as video footage, to support that the tenants' tied the cord to the fire exit door and their unit door.

Although the landlord alleged that the tenants spray painted two vehicles in the parking lot, they have not provided sufficient evidence of this incident, as they did not know the date or any other particulars of the incident.

Finally, although the landlord alleged the strata has hired a security guard as they are fearfully of the tenants, the strata did not attend to provided testimony or provide any other documentary evidence to support that a security guard was hired or that they were hired solely based on the above actions of the tenants or that the strata's actions are even reasonable.

Based on the above, I find the landlord has failed to prove the tenancy should end pursuant to section 56 of the Act. Therefore, I dismiss the landlord's application. As the landlord was not successful with their application they are not entitled to recover the filing fee from the tenants.

Conclusion

The landlord's application to end this tenancy early pursuant to section 56 of the *Act* 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: December 12, 2014

Residential Tenancy Branch

