



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing was convened by way of conference call concerning an application made by the landlord for an order ending the tenancy early and to obtain an Order of Possession, and to recover the filing fee from the tenant for the cost of the application.

The landlord attended, however was represented by an agent who gave affirmed testimony. Despite being served with the Landlord's Application for Dispute Resolution and notice of hearing documents personally on January 31, 2015, no one for the tenant attended. The line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony and the only participants who joined the hearing were the landlord and the landlord's agent. The landlord's agent testified that the documents were served by him on the tenant on that date and in that manner, and I am satisfied that the tenant has been served in accordance with the *Residential Tenancy Act*.

All evidence and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Should the landlord obtain an Order of Possession earlier than a notice ending the tenancy would become effective?

Background and Evidence

The landlord's agent testified that this month-to-month tenancy began on October 1, 2014 and the tenant still resides in the rental unit. Rent in the amount of \$650.00 per month is payable in advance on the 1st day of each month, although no written tenancy agreement exists. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$300.00 which is still held in trust by the landlord, and

no pet damage deposit was collected. The rental unit is a basement suite in a home owned by the landlord and the upper unit is also tenanted. The landlord and the landlord's agent reside next door.

The landlord's agent further testified that the tenant was served with a 2 Month Notice to End Tenancy for Landlord's Use of Property which contains an expected date of vacancy of January 31, 2015. That matter is set for hearing tomorrow. However, prior to its effective date an incident took place at the rental unit that involved police. The landlord's agent arrived home to about 7 police cars at the house and the landlord's family wasn't allowed near. The landlord's agent was told that the daughter of the tenant was assaulted with a firearm by a guest whom has been seen at the rental unit. The landlord's agent is not certain whether the girl was shot with the gun or hit with it and police have not released those details to the landlord. The landlord has provided a police file number as well as newspaper articles which describe the incident. The address of the rental unit is contained in the articles which also contain photographs of police attendance and states that the girl is in serious condition. The tenant was heard saying that she wished she had been hit instead, and the landlord's agent testified that the girl is still in hospital.

The landlord and the landlord's agent fear for the safety of the landlord's family and other tenants. Several people including the gun-man have been seen coming and going to and from the rental unit and the landlord's family does not want to attend the rental unit.

Analysis

I have read the newspaper articles and I accept the testimony of the landlord's agent, and I find that the landlord has cause to fear for the safety of the landlord's family and other tenants. Where a firearm is involved with respect to a tenancy, the landlord should not be required to wait for a notice to end the tenancy would take effect. The landlord's agent testified that a hearing is scheduled for tomorrow with respect to the 2 Month Notice to End Tenancy for Landlord's Use of Property and also testified that the notice contains an expected date of vacancy of January 31, 2015, which has already passed. Regardless of that hearing, I am satisfied that the landlord is entitled to an Order of Possession.

Since the landlord has been successful with the application, the landlord is also entitled to recovery of the \$50.00 filing fee.

Conclusion

For the reasons set out above, I hereby grant an immediate Order of Possession in favour of the landlord.

I further grant a monetary order in favour of the landlord as against the tenant pursuant to Sections 67 and 72 of the *Residential Tenancy Act*.

These orders are final and binding and may be enforced.

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: February 10, 2015

Residential Tenancy Branch

