



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ET / OP, FF

Introduction

This hearing concerns two (2) separate applications by the landlord for an early end to tenancy and an order of possession for two (2) separate units, in addition to recovery of the filing fee with respect to one (1) of these applications. Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the landlord is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Two (2) previous files were opened and are now closed with respect to these same parties and the subject units. The landlord was the applicant in both of these.

Two (2) additional files have been opened in response to applications by the landlord with regard to these units and going forward, two (2) separate hearings are scheduled to occur on March 26, 2015. In addition to other things, it is understood that the landlord seeks an order of possession and a monetary order for unpaid rent with respect to both units in the upcoming hearings.

Further to all of the above, there are two (2) separate applications before me from the landlord. As noted above, the landlord seeks an early end to tenancy and an order of possession for both units, in addition to recovery of the filing fee for one (1) of the applications.

There is no written tenancy agreement in evidence before me for a tenancy concerning either unit. Neither is there any documentary evidence before me concerning the amount of monthly rent for either unit, or the amount of any security deposit which may have been collected.

It is understood that the tenant made her principal residence in one (1) of the subject units, and that she sublet the other. Presently, the tenant testified that she is relocating from one (1) of these units to the unit which was originally her principal residence.

The landlord has set out miscellaneous allegations related to the tenant's conduct and behaviour including threats made against the landlord and other tenants, in addition to vandalism / property damage. Specifically, the landlord claims that the tenant intentionally flooded her unit and two (2) other units located below. The landlord also claims that the tenant vandalized two (2) vehicles parked in the carport. Further, the landlord claims that the tenant has "promised to cause as much damage as possible before she leaves." The tenant disputes that there is any validity to the landlord's allegations, and during the hearing the parties frequently talked over one another.

Analysis

Section 47 of the Act speaks to **Landlord's notice: cause**.

Section 56 of the Act addresses **Application for order ending tenancy early**, and provides in part as follows:

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,

(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.

There is no evidence that the landlord has issued a 1 month notice to end tenancy for cause with respect to either of the two (2) units.

In this case, the burden of proof is on the landlord to show that an early end of tenancy and an order of possession are justified in the absence of issuance of a 1 month notice to end tenancy for cause. The burden of proof is high. Based on the documentary evidence and the conflicting testimony of the parties, I find that the landlord has failed to meet the burden of proving that "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." Accordingly, the applications for an early end to tenancy and an order of possession for both units, in addition to recovery of the filing fee for one (1) of the two (2) applications, are hereby dismissed.

Conclusion

Both of the landlord's applications are hereby dismissed in their entirety.

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: March 09, 2015

Residential Tenancy Branch

