



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT INC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ET

Introduction

This matter dealt with an application by the Landlord for an Order of Possession and for an early end to the tenancy.

This is a Review Hearing as a result of the Tenant making a successful review consideration application on May 25, 2015. In the review application the Tenant said he did not receive the Notice of Hearing and the Landlord's hearing package until May 8, 2015 and the hearing was conducted on May 6, 2015. Consequently the Tenant was not able to attend the hearing as he did not know it was happening. The Landlord said he served the Tenant the hearing package on April 24, 2015 in the Tenant's mail box of the rental complex for the Tenant's wife to collect and give to the Tenant as the Tenant had a "No Go" Police order keeping him out of the rental complex. The Tenant's wife said she was given the hearing package by the Landlord's staff on May 8, 2015.

I find it is unclear if the Landlord's hearing package was served correctly and in time for the first hearing therefore a Review Hearing was granted for this application.

Issues(s) to be Decided

1. Does the Landlord have grounds to end the tenancy early?

Background and Evidence

This tenancy started on August 1, 2013 as a month to month tenancy. Rent is \$375.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$187.50 on August 1, 2013.

The Landlord said they issued a 1 Month Notice to End Tenancy for Cause with and effective vacancy date of May 31, 2015, but they now believe the Tenant is a serious risk to the health and safety of the other occupants.

The Landlord said there was an incident with the Tenant and his wife at 4:43 a.m. on April 12, 2015 in which the Landlord's staff and other tenants in the rental complex heard a woman screaming. The woman screaming was the Tenant's wife. The Landlord said his staff said the women said the Tenant had choked her and threatened to throw her out a window. The Landlord said his staff member said the women was having difficulty breathing and was quite distraught. The Landlord said the staff member entered the incident in the log book and there was an incident report made. The Landlord submitted copies of the log book entry and the incident report. As well the Landlord said the Police were called and the Tenant was charged with assault and forcible confinement. The Landlord continued to say that there were three witnesses who are tenants in the complex and there are no contact orders on the Tenant with these witnesses as well. The Landlord said he is concerned for the witnesses' safety. The Landlord requested an end to the tenancy and an Order of Possession for as soon as possible.

The Tenant said there was an incident in the morning of April 12, 2015, but there was no physical violence. The Tenant said he and his wife had a disagreement and they were verbally arguing. The Tenant's wife said she was not physically assaulted but that night she was very upset and was not completely clear on what happened. The Tenant's wife said she remembered being comforted by another tenant S. and that the Landlord's staff member was there as well as some other tenants.

The Tenant continued to say that the Landlord has an agenda to evict him because of other issues with their management of this and other rental complexes. The Tenant said he has been charged for assault and forcible confinement, but the Police that came to the rental unit have an ongoing dispute with his wife that influenced their handling of the incident. The Tenant said he and his wife had an argument but no physical violence happened. The Tenant said the Landlord has no grounds to evict him as it was only a verbal argument with his wife.

Analysis

Section 56 of the Act says a Landlord may make an application to request an order to end a tenancy early if the Tenant significantly interfered with or unreasonable disturbs other occupants or the landlord, seriously jeopardizes the health or safety of other occupants or the landlord, put the landlord property at significant risk, jeopardizes the lawful right of other occupants, caused extraordinary damage to the property or that it would be unreasonable or unfair for a landlord or other occupant to wait for a notice to end tenancy.

It is apparent from the testimony and evidence that there are issues between the Tenant and the Landlord. Section 56 of the Act uses language which is written very strongly and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been

unreasonably disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant, or put the landlord's property at **significant** risk. Or that it would be **unfair** for a landlord or other occupant to wait for a notice to end tenancy.

In this case I accept the Landlord's affirmed testimony and written evidence that the Tenant has put another occupant in the rental complex at risk. The evidence of the AMPI log book entry clearly states the Tenant's wife was in physical difficulty and she named the Tenant as choking her and threatening her that he was going to throw her out a window. To support this evidence the Landlord has also submitted the Critical Incident Report which also states the Tenant's wife was assaulted by the Tenant and the staff called EMS to attend to the Tenant's wife. In addition the Tenant confirmed he was charged by the Police with assault and forcible confinement. I accept the Landlord's testimony and evidence that the Tenant caused an incident that has reached the level of **unreasonableness, significance or seriousness as defined by section 56 of the Act**. As well the effective vacancy date on the Landlord's 1 Month Notice to End Tenancy of May 31, 2015 as pasted; therefore; I award the Landlord an Order of Possession effective 2 days after service of the Order on the Tenant.

Conclusion

The Landlord's application for an early end to tenancy is granted.

I find, pursuant to section 56 of the Act, that the landlord is entitled to an Order of Possession effective **two days after service** on the tenant and the Order may be filed in the Supreme Court and enforced as an Order of that Court.

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: June 22, 2015

Residential Tenancy Branch

