



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an application by the landlord for an early end of tenancy and to obtain an order of possession. The landlord participated in the conference call hearing but the tenant did not. The landlord presented evidence that the tenants were served with the application for dispute resolution and notice of hearing by registered mail on January 18, 2016. I found that the tenants had been properly served the landlords evidence and with the notice of the landlord's claim and the date and time of the hearing in accordance with Section 89 of the Act and the hearing proceeded in their absence. The landlord gave affirmed evidence.

Issues to be Decided

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

Background and Evidence

The landlord gave the following testimony:

The tenancy began on or about November 14, 2015. Rent in the amount of \$750.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$375.00. The landlord stated that since the tenant moved into the unit strange odors have emanated from it. The landlord stated that the smells have caused her some headaches and jaw

pain. The landlord stated that since she served him this notice, “he’s gotten a little better”. The landlord stated that she has a hearing on February 10, 2016 and that she’s attempting to resolve the matter with the tenant in the interim. The landlord stated that she’s not sure what the chemical smell is, but its caused her great stress and poor health.

Analysis

When landlord makes an application for an early end to tenancy, the landlord has the burden of proving that:

1. there is cause for ending the tenancy, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the landlord’s property at significant risk; and
2. that it would be unreasonable or unfair to the landlord or other occupants to wait for a one month Notice to End Tenancy for cause under section 47 of the Act to take effect.

In this case, I am not satisfied that the landlord has met the second part of the test by showing that it would be unreasonable or unfair for a one month Notice to End Tenancy to take effect. In the landlords own testimony she acknowledged that there has been an improvement since issuing the notice for today’s hearing. In addition, she has failed to show how the smells coming from the suite have adversely affected her health. I am satisfied that there *may* be cause to end this tenancy pursuant to Section 47 of the Act; however, I do not find it is unfair or unreasonable for the landlord to wait for a one month Notice to End Tenancy to take effect. The landlord has not been successful in her application.

Conclusion

The landlords' application is dismissed. The tenancy continues.

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 03, 2016

Residential Tenancy Branch

