



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

ET and FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord has applied for an Order of Possession, for an early end to the tenancy, and to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

The Landlord stated that on February 23, 2014 she personally served the Tenant with the Application for Dispute Resolution, the Notice of Hearing, and documents she submitted with the Application for Dispute Resolution. The documents submitted in evidence were reviewed with the Tenant and he acknowledged receipt of those documents. As the Tenant acknowledged receipt of the documents they were accepted as evidence for these proceedings.

The Landlord and the Tenant were given the opportunity to provide relevant oral testimony, to ask relevant questions, and to make relevant submissions.

Issue(s) to be Decided

Is the Landlord is entitled to end this tenancy early and to an Order of Possession?

Background and Evidence

The Landlord and the Tenant agree that:

- the tenancy began on May 01, 2015;
- rent of \$500.00 is due by the first day of each month;
- the Tenant has a private room and shares a common kitchen and bathroom with an occupant who is living in the rental unit under a separate tenancy agreement;
- the Landlord lives above the rental unit but does not share a kitchen or bathroom with the Tenant;
- rent has been paid for March of 2016;

- a One Month Notice to End Tenancy for Cause was served to the Tenant on, or about, February 08, 2016;
- the One Month Notice to End Tenancy for Cause declares that the Tenant must vacate the unit by March 31, 2015; and
- the One Month Notice to End Tenancy is the subject of a dispute resolution hearing on April 05, 2016.

The Landlord stated that she wants to end this tenancy early, in part, because the Tenant has threatened to harm the person who lives in the rental unit with the Tenant; he has threatened to harm other people living in the residential complex; and he has pushed another person living in the residential complex.

The Landlord stated that:

- she does not know how often the Tenant has threatened people living in the residential complex;
- the Tenant has not assaulted the person who lives in the rental unit with the Tenant;
- sometime in October of 2015 she observed the Tenant push another person who lives in the residential complex;
- and the person pushed by the Tenant in October of 2015 no longer resides in the residential complex.

The Witness for the Landlord stated that:

- he lives in the same suite as the Tenant;
- approximately two months ago the Tenant was angry because he had been wakened by the Witness for the Landlord;
- while he was angry the Tenant pushed him against the wall;
- the Tenant has not assaulted him on any other occasion;
- while he was angry the Tenant threatened to harm him;
- the Tenant has threatened him on other occasions although he cannot recall when the most recent threat was made; and
- he has heard the Tenant threaten to harm other occupants of the residential complex.

The Tenant stated that:

- he and the Witness for the Landlord have had several disagreements;
- that he has never threatened or assaulted the Witness for the Landlord;
- that the Witness for the Landlord has never verbally threatened or assaulted the Tenant;
- the Witness for the Landlord has "gotten in his face" a couple of times;
- he has had an argument with a male living elsewhere in the residential complex;
- he did tell the male living elsewhere in the residential complex that he would be willing to fight in the alley;
- the proposed fight did not occur; and

- he never pushed the male living elsewhere in the residential complex.

The Landlord stated that she wants to end this tenancy early, in part, because the Tenant continues to allow “homeless people” stay in the rental unit.

The Landlord stated that:

- the Tenant has been told on several occasions that “homeless people” cannot reside in the residential unit;
- she has informed him in writing that “homeless people” are not permitted in the rental unit on two occasions;
- that he continues to allow “homeless people” to stay in the unit in spite of her verbal and written notices ;
- there is nothing in their written agreement that prohibits the Tenant from having guests; and
- the Tenant allows “homeless people” to stay in his unit approximately 4-5 times each month.

The Tenant stated that:

- he does allow “homeless people” to stay in his rental unit;
- he allows people to stay in his rental unit about once or twice every month;
- he has allowed a person to stay in his rental unit for two days this week; and
- his guests are quiet and well behaved.

The Landlord stated that she wants to end this tenancy early, in part, because the “homeless people” the Tenant allows to stay in the rental unit are noisy, unhygienic, and that they have taken food belonging to the other occupant of the rental unit.

The Landlord stated that she wants to end this tenancy early, in part, because the Tenant is “harassing” her on a daily basis. She stated that he is “harassing” her by coming to her door or confronting her on the property about various things. She was unable to provide an example of an issue that the Tenant wished to discuss that was unreasonable.

The Landlord stated that she wants to end this tenancy early, in part, because the young women who share her home are afraid of the Tenant.

The Landlord stated that she wants to end this tenancy early, in part, because the Tenant is not cleaning the common areas and he is smoking inside his room.

Analysis

Section 56(1) of the *Residential Tenancy Act (Act)* stipulates that a landlord can apply for an order that ends the tenancy on a date that is earlier than the tenancy would end if a notice to end tenancy were given under section 47 of the *Act* and that the landlord

may apply for an Order of Possession for the rental unit on the basis of the early end to the tenancy.

Section 56(2)(a) of the *Act* authorizes me to end the tenancy early and to grant an Order of Possession in any of the following circumstances:

- The tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property
- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant
- The tenant or a person permitted on the residential property by the tenant has put the landlord's property at significant risk
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has caused or is likely to cause damage to the landlord's property
- The tenant or a person permitted on the residential property by the tenant has engaged in illegal activity that has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property
- The tenant or a person permitted on the residential property by the tenant has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord
- The tenant or a person permitted on the residential property by the tenant has caused extraordinary damage to the residential property.

Section 56(2)(b) if the *Act* authorizes me to grant an Order of Possession in these circumstances only if 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 to take effect.

If I were to accept the Witness for the Landlord's testimony that the Tenant had pushed him, it is highly likely that I would find that the Landlord has grounds to end this tenancy on the basis that the tenant has significantly interfered with or unreasonably disturbed another occupant of the residential property.

Even if I did find that the Tenant pushed the Witness for the Landlord, I would not find that it would be grounds to end this tenancy early. In reaching this conclusion I was heavily influenced by the Witness for the Landlord's testimony that he was pushed approximately two months ago and that there has been no physical altercations since that date. In the absence of evidence that shows there is likely to be another physical altercation, I do not find it unreasonable for the parties to wait for the hearing that is scheduled for April 05, 2016 which will determine if this tenancy should end on the basis

of the One Month Notice to End Tenancy for Cause that was served on, or about, February 08, 2016.

If I were to accept the Landlord's testimony that in October of 2015 the Tenant pushed another occupant of the residential complex, it is possible that I would find that the Landlord has grounds to end this tenancy on the basis that the tenant has significantly interfered with or unreasonably disturbed another occupant of the residential property.

Even if I did find that the Tenant pushed another occupant of the residential complex in October of 2015, I would not find that it would be grounds to end this tenancy early. In reaching this conclusion I was heavily influenced by the undisputed evidence that the alleged victim of this assault is no longer residing in the residential complex. In the absence of evidence that shows the alleged victim is in any imminent danger, I do not find it unreasonable for the parties to wait for the hearing that is scheduled for April 05, 2016 which will determine if this tenancy should end on the basis of the One Month Notice to End Tenancy for Cause that was served on, or about, February 08, 2016.

In some circumstances I would find that making threats to other occupants of the residential complex is grounds to end a tenancy on the basis that the tenant has significantly interfered with or unreasonably disturbed another occupant of the residential property.

Even if I did find that the Tenant threatened other occupants of the residential complex, however, I would not find that it would be grounds to end this tenancy early. In reaching this conclusion I was heavily influenced by the allegations that these threats have been made over a period of time and that the Tenant has not acted on those threats for at least two months. In the absence of evidence that the Tenant intends to act on any of the threats he is allegedly making, I do not find it unreasonable for the parties to wait for the hearing that is scheduled for April 05, 2016 which will determine if this tenancy should end on the basis of the One Month Notice to End Tenancy for Cause that was served on, or about, February 08, 2016.

There is nothing in the *Act* that authorizes a landlord to end a tenancy because a tenant has an overnight guest. I therefore cannot conclude that the Landlord has grounds to end this tenancy simply because the Tenant allows people to stay in the rental unit.

In some circumstances I would find that a tenancy could end on the basis that the tenant of the tenant's guest has significantly interfered with or unreasonably disturbed another occupant of the residential property if the tenant's guests are being noisy, if the guests are being unhygienic, or if the guests are taking another tenant's food.

Even if I did find that the Tenant's guests were disturbing another occupant of the residential complex, I would not find that it would be grounds to end this tenancy early. These are typically issues that result in the service of a One Month Notice to End Tenancy and I do not find it unreasonable for the parties to wait for the hearing that is scheduled for April 05, 2016 which will determine if this tenancy should end on the basis of the One Month Notice to End Tenancy for Cause that was served on, or about, February 08, 2016.

Even if I did find that the Tenant was speaking with the Landlord on a daily basis, I find that the Landlord has submitted insufficient evidence to establish this would be grounds to end the tenancy. In reaching this conclusion I was heavily influenced by the absence of evidence that establishes that the issues being raised by the Tenant are inappropriate or unreasonable. There is nothing in the *Act* that prevents a tenant from speaking with a landlord on a daily basis if the reasons for the communication are reasonable.

Even if I did find that other occupants living on the residential property were afraid of the Tenant, I would not find that it would be grounds to end this tenancy early. Even if I found that the young women were afraid of the Tenant, in the absence of evidence that shows the young women are in danger, I do not find it unreasonable for the parties to wait for the hearing that is scheduled for April 05, 2016 which will determine if this tenancy should end on the basis of the One Month Notice to End Tenancy for Cause that was served on, or about, February 08, 2016.

Even if I did find that the Tenant was smoking inside his room and/or that he was not cleaning the common areas properly I would not find that it would be grounds to end this tenancy early. These are typically issues that result in the service of a One Month Notice to End Tenancy and I do not find it unreasonable for the parties to wait for the hearing that is scheduled for April 05, 2016 which will determine if this tenancy should end on the basis of the One Month Notice to End Tenancy for Cause that was served on, or about, February 08, 2016.

I find that the Landlord has not established grounds to end this tenancy early, pursuant to section 56 of the *Act*. I therefore dismiss the Landlords' application to end the tenancy early and for an Order of Possession.

I find that the Landlord has failed to establish the merit of her Application for Dispute Resolution and I dismiss her claim to recover the fee for filing this Application.

Conclusion

The Landlord's Application for Dispute Resolution is dismissed in its 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 17, 2016

Residential Tenancy Branch