



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Gabriello Holdings Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

ET

Introduction

This hearing was convened in response to an application for an early end to a tenancy and an order of possession by the Landlord pursuant to section 56 of the *Residential Tenancy Act* (the "Act").

The Tenant did not attend the hearing. On July 29, 2016 the Landlord attempted to give the application for dispute resolution to the Tenant in person when the Tenant opened the door to the Landlord. The Tenant refused to take the documents so the Landlord placed the documents under the door. Given this evidence I accept that the Tenant was sufficiently served with the application for dispute resolution and notice of hearing in accordance with Section 71 of the Act. The Landlord was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

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

Background and Evidence

The tenancy started in 2012. Rent of \$820.00 is payable on the first day of each month.

Some time prior to July 12, 2016 the Tenant began banging on the walls and ceiling of her unit because she felt the upper tenants were being too loud. The Landlord lives above both units and does not feel that the noise coming from the other tenants was above normal noise levels. Despite the Landlord warning the Tenant to stop disturbing the other tenants the Tenant continued and escalated the behavior of yelling, swearing and banging. At some point the tenants called the police and upon seeking entry to speak with the Tenant the Tenant slammed the door on the police and would not allow their entry. The police informed the Landlord that the Tenant's behavior was then reported to social services by the police. On July 21, 2016 the police attended with social workers and the Tenant refused entry. The Tenant has also changed the lock on the door resulting in the Landlord not being able to open the door so the police broke the door down. When the police entered the Tenant had a knife and the police pepper sprayed the Tenant. The Tenant's child was apprehended on this occasion. Since this incident the Tenant's disruptive behavior has escalated with noise and the Tenant has refused to allow the Landlord to change the locks back.

The Landlord claims an order of possession effective no later than August 31, 2016.

Analysis

Section 56 of the Act provides that a landlord may make an application to end a tenancy earlier than it would end if the landlord issued a 1 Month Notice to End Tenancy for Cause and obtain an Order of Possession in certain circumstances. It is not necessary for the landlord to issue a 1 Month Notice; however, the landlord must show that:

- (a) the tenant or a person permitted on the residential property by the tenant has done any of the following:
 - (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
 - (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
 - (iii) put the landlord's property at significant risk;
 - (iv) engaged in illegal activity that
 - (A) has caused or is likely to cause damage to the landlord's property,
 - (B) 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, or
 - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
 - (v) caused extraordinary damage to the residential property, and
- (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.

Upon consideration of the undisputed evidence before me, I am satisfied that the Tenant's aggressive and threatening behaviour has significantly interfered with or unreasonably disturbed the landlord or another occupant. In the circumstances it would be unreasonable and unfair to require the Landlord to wait for a notice to end tenancy for cause. I find therefore that the Landlord is entitled to an order for possession.

Conclusion

I grant an Order of Possession effective 1:00 p.m. on August 31, 2016.

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: August 16, 2016

Residential Tenancy Branch