



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *ET, FF*

Introduction

This hearing dealt with an application by the landlord pursuant to section 56 of the *Residential Tenancy Act*, for an order to end the tenancy early and obtain an order of possession. The landlord also applied for the recovery of the filing fee.

The landlord testified that she served the tenant with the notice of hearing and application for dispute resolution on October 05, 2016 by registered mail. The landlord provided a tracking number and stated that she tracked the package and found that the tenant received the notice of hearing, on October 06, 2016. The tenant did not participate in the conference call hearing. I found that the tenant had been served with notice of the landlord's claim and the hearing proceeded in the tenant's absence.

Issues to be Decided

Is the landlord entitled to end the tenancy early?

Background and Evidence

The landlord testified that in early September 2016, she received complaints of erratic behavior and verbal abuse by the tenant towards the other occupants of the rental property. The landlord stated that she visited the rental unit on September 20, 2016 and served the tenant with a ten day notice to end tenancy for no payment of rent and gave the tenant a verbal warning regarding the complaints she had received.

The landlord testified that the tenant got verbally abusive and therefore she left the rental property. The landlord agreed that she had not served the tenant with a written warning or with a notice to end tenancy for cause.

On October 05, 2016, the landlord made application to put an early end to tenancy. The landlord stated that after making the application she requested the other occupants to write letters about their interactions with the tenant. The landlord filed copies of these letters into evidence.

Analysis

Section 56 is an extraordinary remedy that is reserved for situations in which there is a clear and present danger, or a genuine threat of imminent harm of such an extreme nature that it would warrant immediate intervention and removal of the tenant. In addition to proving that there is cause to end the tenancy, in an application of this nature the landlord must clear a second hurdle. Under section 56(2)(b) of the Act, in order to establish a claim for an early end to tenancy, the landlord must establish that “it would be *unreasonable, or unfair* to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47” .

Based on the documentary evidence and testimony of the landlord, I find that the landlord received verbal complaints from other occupants of the rental property in the early part of September 2016, but took no action other than to present the tenant with a ten day notice to end tenancy for nonpayment of rent at which time she gave the tenant a verbal warning. Since the landlord waited until September 20, did not serve the tenant with a written warning and found it appropriate to serve the tenant with a notice to end tenancy for nonpayment of rent rather than cause, I am not persuaded that it would be unreasonable or unfair for the landlord to serve the tenant with a notice to end tenancy for cause and to wait for the notice to take effect.

The landlord also notified me that she has a hearing scheduled for November 14, 2016 regarding the tenant's application to dispute the ten day notice to end tenancy.

While the landlord may have reason to end the tenancy, the landlord has not established grounds for an extraordinary remedy such as this. For the above reasons, I dismiss the landlord's application to end tenancy early.

Conclusion

The landlord's application is dismissed. The landlord must bear the cost of filing this application.

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: November 04, 2016

Residential Tenancy Branch