



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 pursuant to section 56 of the *Residential Tenancy Act*, for an order to end the tenancy early and obtain an order of possession. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The tenant denied having received the landlord's evidence. Both parties gave affirmed testimony.

The tenant stated that she received three notices to end tenancy on August 16, 2016. Two of these notices were for cause and one for non-payment of rent.

The tenant made an application for dispute resolution on August 22, 2016 but did not follow through with the application and the file was deemed abandoned. The landlord made an application for an order of possession on August 23, 2016 and a hearing was scheduled for October 12, 2016. The landlord did not attend the hearing and the matter was dismissed.

On the same date, October 12, 2016 the landlord made a second application for dispute resolution seeking an order of possession for non-payment of rent. This matter is scheduled to be heard on December 01, 2016. Two days later. On October 14, 2016, the landlord made this application for an order of possession to put an early end to tenancy.

Issues to be decided

Does the landlord have cause to end the tenancy early?

Background and Evidence

The tenant rented the basement suite of the home, on May 01, 2014. The upper floor is rented out separately and is occupied by three females including a 16 year old child.

The landlord testified that he received complaints from the upstairs occupants regarding the activities of the tenant. The upstairs occupants testified at the hearing. Both of them described problems that they said started in July 2016, which was the time they moved into the upstairs rental suite.

The upstairs occupants stated that the tenant smokes marijuana inside the rental unit, uses abusive language towards them, interferes with their use of the laundry machines, turns off power and creates noise disturbances during the early morning. They also stated that they observed a visitor of the tenant attempting to break into a car.

The landlord testified that upon receiving these complaints he wrote a letter to the tenant on July 10, 2016. The landlord also stated that he visited the tenant along with his wife and the tenant pushed his wife. The landlord could not remember the date of this incident and the tenant denied having pushed the landlord's wife.

The tenant offered to end the tenancy on February 01, 2017 and the landlord stated that he would agree to allow the tenancy to continue to February 01, 2017 if the tenant paid all outstanding rent. The tenant stated that she did not owe rent.

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 parties, I find that the problems that the landlord and his witnesses referred to occurred in July 2016 and involved smoking, noise disturbances etc. On October 12, 2016, the landlord applied for an order of possession to end the tenancy for non-payment of rent. Two days later on October 14, the landlord made this application to put an early end to tenancy.

The landlord was unable to provide information about any incidents that may have occurred within the two days that separated his applications to end the tenancy for non-payment of rent and to put an early end to tenancy.

The landlord made this application on October 14, 2016 and agreed to allow the tenancy to continue up to February 01, 2017 if the tenant paid all rent owed. If there was a threat of imminent harm to the landlord or the other occupants of the rental property, then the landlord would have wanted the tenancy to end immediately and would not be willing to allow it to continue if the tenant paid outstanding rent. In addition the landlord would have at least remembered the date that the tenant allegedly pushed his wife.

Based on the evidence and testimony of both parties, I am not persuaded that it would be unreasonable or unfair for the landlord to wait until the next hearing on December 01, 2016.

While the landlord may have cause to end the tenancy upon one month's notice, 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.

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 16, 2016

Residential Tenancy Branch