



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HFBC HOUSING FOUNDATION
and [tenant name suppressed to protect privacy]

DECISION

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Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an early end to this tenancy and an Order of Possession pursuant to section 56.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issue to be Decided

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

Background, Evidence

The landlord's testimony is as follows. The tenancy began on October 15, 2013. The tenant is obligated to pay \$446.00 per month in rent in this not for profit independent living facility. The landlords' agent testified that the tenant is elderly and his cognitive functioning is declining. The landlords' agent testified that the tenant doesn't speak English which exacerbates that problem. The landlords' agent testified that the tenant has a tendency to leave candles burning unattended in his unit. The landlords' agent testified that on March 1, 2017 another tenant called the fire department because the subject tenants unit had excessive amount of smoke billowing from it. The landlords' agent testified that by the time the fire department arrived they found something that had flamed itself out in some sort of container on the tenants' patio. The landlords agent testified that due to the subject tenant's inability to take care of himself and his history of leaving things burning unattended, he has put himself, other tenants and the building in jeopardy and that the tenancy should end early and the landlord be granted an order of possession.

The tenants' agent gave the following testimony. The tenants' agent testified that he visits his father a minimum of three times a week, in addition to a family friend that visits more than that. The tenant's agent testified that there has been no significant threat to anyone's safety or that of the building. The tenants' agent testified that the tenant has lots of family support and that they are doing a very good job of checking in on him and making sure that he is doing okay. The

tenants' agent testified that there wasn't any "hard evidence" to support the landlords claim and that the tenancy should continue.

Analysis

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlords claim and my finding is set out below.

It is apparent from the testimony of the parties that there are issues between them. The tenant has provided disputing testimony to the landlords' allegations. Section 56 of the Act uses language which is strongly written and it's written that way for a reason. A person cannot be evicted simply because another occupant has been disturbed or interfered with, they must have been **unreasonably** disturbed, or **seriously** interfered with. Similarly the landlord must show that a tenant has **seriously** jeopardized the health or safety or lawful right or interest of the landlord or another occupant, or put the landlord's property at significant risk and that it's **unfair** to the landlord or other occupants to wait for a Notice to End Tenancy. I do accept that the tenant has been a nuisance on two occasions, but the two incidents alleged by the landlord are not enough to justify the early end of tenancy.

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. Although there may be cause to end this tenancy pursuant to Section 47 of the Act; 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.

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: April 27, 2017