



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 under the Residential Tenancy Act for the following:

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

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. Both parties confirmed that they exchanged their documentary evidence.

Issue(s) to be Decided

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

Background and Evidence

The landlord gave the following testimony. The landlord testified that she and the tenant agreed on a two year fixed term tenancy commencing on May 1, 2017 with the monthly rent of \$1500.00. The tenant provided a security deposit of \$750.00 and still resides in the unit. The landlord testified that her 14 year old son and his father were evicted from their home and that is the basis for the emergency end of the tenancy as the landlord wishes to house them in the subject property. The landlord testified that the tenant has restricted access for the landlord to conduct plumbing repairs. The landlord testified that on January 30, 2018 the tenant became verbally abusive and aggressive after serving her a 2 Month Notice to End Tenancy for Landlord's Use of Property. The landlord testified that "there is a lot more going on" and requests an order of possession.

The tenant gave the following testimony. The tenant testified that the landlord is the one who is in fact being aggressive and abusive. The tenant testified that she has requested that the landlord conduct repairs on numerous occasions but those requests have been ignored, so much so that the parties have another hearing on March 29, 2018 to address those matters. The tenant testified that she has no intention of moving before the end of her "lease".

Analysis

When a landlord makes an application for an early end to tenancy, the landlord has the burden of proving that:

1. There is cause for ending the tenancy, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the landlord's property at significant risk; **and**
2. That it would be unreasonable or unfair to the landlord or other occupants to wait for a one month Notice to End Tenancy for cause under section 47 of the Act to take effect.

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.

In this case, I am not satisfied that the landlord has met the first part of the test by showing that the tenant unreasonably disturbed the landlord or put their property at significant risk, accordingly; I dismiss the landlords' application.

Conclusion

The landlords' 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: March 13, 2018

Residential Tenancy Branch