



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

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, starting April 2017. The upstairs of the home is rented out separately.

The landlord filed a copy of a notice to end tenancy for landlord's use of property dated March 01, 2018. The tenant disputed the notice and this matter was heard on March 22, 2018. The notice was set aside. The landlord testified that he served a second notice to end tenancy for cause but could not recall the date he served it. The tenant denied having received a second notice to end tenancy.

The landlord testified that the tenants have multiple visitors that spend a very short time with the tenant and this kind of activity is consistent with drug dealing. The tenant denied the allegation. The landlord also testified that the tenants' caregiver threatened him and pushed him on April 27, 2018. The tenant denied that this incident occurred. The landlord filed a copy of a witness letter regarding this event. The letter states that the caregiver was "violent" with the landlord but does not provide any description about the date or other details. The witness also states that she fears the tenants and their guests due to their drunken and threatening behavior.

The landlord described verbal abuse from the tenant along with racial slurs. The tenant denied having been verbally abusive to the landlord.

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 incident that the landlord referred to occurred on or about April 27, 2018. The landlord made this application on May 18, 2018. If there was a threat of imminent harm to the landlord then the landlord would have made application, immediately after the incident

Based on the testimony of both parties, I am not persuaded that it would be unreasonable or unfair for the landlord to wait while a one month notice to end tenancy takes effect. 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 and he 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: June 28, 2018

Residential Tenancy Branch