



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

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

- an early end to this tenancy and the issuance of an Order of Possession pursuant to section 56; and
- authorization to recover his filing fee for this application from the tenant pursuant to section 72.

The landlord attended this hearing, but the tenant did not. SM testified that he personally served the male tenant on June 11, 2018. Based on the undisputed testimony of SM I am satisfied that the tenants were served in accordance with section 89 of the Act. The hearing proceeded and completed on that basis.

Issues(s) to be Decided

Is the landlord entitled to an early end of tenancy and an Order of Possession?
Is the landlord entitled to recover the filing fee for this application from the tenant?

Background and Evidence

The landlord gave the following testimony. The landlord testified that this month to month tenancy began on January 1, 2018 with a monthly rent of \$700.00. The landlord testified that the tenant has not provided a security deposit and that their tenancy agreement is a verbal one. The landlord testified that the tenant has not paid rent since they moved in. The landlord testified that on May 31, 2018 he attended to the property in attempts to collect past due rent. The landlord testified that the male tenant and "many other guys jump on my head and make me dizzy and I fall down". The landlord testified that the police attended and arrested the tenant. The landlord testified that he was taken to the hospital in an ambulance. The landlord testified that he has not returned to the property since and is afraid of the tenants.

Analysis

The landlord testified that the police attended and arrested the tenant on May 31, 2018 and that an ambulance attended to take him to the hospital to care for his injuries,

however, the landlord did not provide documentation to support that testimony. The landlord testified that he is unaware if the police have laid charges against the tenant.

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.

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. I am satisfied that there *may* be cause to end this tenancy pursuant to Section 47 of the Act; however, 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 in its entirety.

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: July 04, 2018

Residential Tenancy Branch