



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CKL INVESTMENTS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OP, FF

Introduction

The landlord applies for an early termination of this tenancy and for an order of possession.

The respondent tenant did not attend the hearing within ten minutes after its scheduled start time at 9:30 a.m. on September 24, 2019. The teleconference hearing connection remained open during that time in order to enable the parties to call into the teleconference hearing. The call-in numbers and participant codes provided in the Notice of Hearing were confirmed as correct. The teleconference system audio console confirmed that the landlord's representative Mr. Y. and this arbitrator were the only ones who had called into this teleconference during that period.

Mr. Y. for the landlord demonstrated that the application and notice of hearing for this matter were served on the tenant by posting on the tenant's door on September 16, 2019. Mr. Y. opines that the tenant did not attend the hearing because he has been incarcerated.

Mr. Y. claims that an early termination of this tenancy pursuant to s. 56 of the *Residential Tenancy Act* (the "*Act*") is in order because the tenant is a violent and threatening criminal who is an immediate threat to the safety and security and peaceful enjoyment of the other tenants in the building. In support of this contention Mr. Y. produces a local Provincial Court criminal docket history showing that the tenant has been charged with a variety of offenses that if true could well cause a reasonable person to be very wary of him.

As stated at this hearing, I am unable to grant the landlord's request.

The landlord has failed to serve the tenant within three days after the application was made, as mandated by s. 59(3) of the *Act*. The application was made September 11, 2019 but the application was not served until September 16, five days later.

Even despite that procedural problem, the evidence would not permit the relief the landlord seeks. The ending of a tenancy is a very serious matter and clear cogent evidence will be required. That is especially so when the tenant does not attend the hearing. In this case the landlord has presented proof of criminal charges having been laid against the tenant as proof of guilt and therefore as proof that the tenant is a danger. Despite Mr. Y.'s overwhelming confidence in that guilt and danger, it is not appropriate for an adjudicator to take the same leaps to those conclusions.

The landlord's application is dismissed.

Mr. Y. has filed a copy of a ten day Notice to End Tenancy for unpaid rent due September 1, 2019. He indicates that the rent has not been paid. The landlord has not yet applied for an order of possession pursuant to that Notice, either by regular application or by the Direct Request process. Mr. Y was directed to the Residential Tenancy Branch for further direction in this regard.

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: September 24, 2019

Residential Tenancy Branch