



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding THUAN PHUOC HOLDING LTD LE
and [tenant name suppressed to protect privacy]

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 recovery of the filing fee.

The landlord was assisted by an interpreter and testified that she served the tenant with the notice of hearing and application for dispute resolution on November 01, 2019, by handing it over to the tenant in person. The tenant did not participate in the conference call hearing. I find that the tenant was served with the landlord's materials in accordance with sections 88 and 89 of the *Act*. The hearing proceeded in the tenants' absence.

Issues to be Decided

Is the landlord entitled to end the tenancy early? Is the landlord entitled to the recovery of the filing fee?

Background and Evidence

The landlord stated that the tenant has not paid rent since September 2019. Through out the hearing with the help of the interpreter, the landlord requested a monetary order for unpaid rent, multiple times. I explained to the landlord that she had made application to end the tenancy early and obtain an order of possession.

In her application the landlord stated that the tenant smokes inside the rental unit and has tampered with the smoke detector. The landlord did not file evidence of having notified the tenant of the breach. The landlord agreed that she had failed to provide sufficient evidence to support her application for an order of possession.

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 written submission and testimony of the landlord, I find that even if I accept that the tenant acted in the manner alleged by the landlord, I find that a situation such as this does not pose an immediate threat to the safety of the landlord. Therefore, 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 it is possible that 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.

The landlord has not proven her case and must therefore bear the cost of filing this application.

Conclusion

The landlord’s 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: December 16, 2019

Residential Tenancy Branch