



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *ET*

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 testified that he served the tenant with the notice of hearing and application for dispute resolution on May 20, 2020, by registered mail. The landlord filed a copy of the tracking slip. Despite having been served the notice of hearing package, 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 tenant's absence.

Issues to be Decided

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

Background and Evidence

The tenancy started in June 2017. The monthly rent is \$600.00 due on the last day of each month. There is no written tenancy agreement. The rental unit is located in the basement of the landlord's home. The landlord lives upstairs.

The landlord stated that the tenant has not paid rent since October 2019 and has caused serious water damage to the bathroom by removing the tub surround and damaging the floor. The landlord also testified that the tenant smokes inside the suite which is causing discomfort and health issues for the landlord. The landlord stated that the tenant leaves refuse filled garbage bags around the house which is attracting rodents.

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 for cause or a ten-day notice for nonpayment of rent, 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.

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 12, 2020

Residential Tenancy Branch