



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FFL

Introduction

This hearing was scheduled to convene at 11:00 a.m. on September 23, 2022 concerning an application made by the landlord seeking an order ending the tenancy early as it would be unreasonable, or unfair to the landlord or other occupants to wait for a Notice to End Tenancy for Cause to take effect; and to recover the filing fee from the tenant for the cost of the application.

The landlord attended the hearing with an agent who also acted as interpreter for the landlord. The landlord's agent gave affirmed testimony. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the tenant joined the call.

The landlord's agent testified that the tenant was served with the Notice of Expedited Hearing and other required documents by hand delivering a package to the tenant on August 28, 2022, however the tenant refused to sign for it. The landlord served the package again by posting it to the door of the rental unit on August 31, 2022, and has provided a Proof of Service document reiterating that information with a witness statement. However, the landlord did not include any of the landlord's evidentiary material in the package.

I am satisfied that the tenant has been served with the hearing package in accordance with the *Residential Tenancy Act*, however any evidence that a party wishes to rely on must be provided to the other party even if they already have a copy; it's important for both parties to know what has been provided for a hearing. Since the landlord has not provided any evidence to the tenant, I decline to consider it.

Issue(s) to be Decided

Has the landlord established that the tenancy should end early because it would be unreasonable, or unfair to the landlord or other occupants to wait for a Notice to End Tenancy for Cause to take effect?

Background and Evidence

The landlord's agent testified that this tenancy began on November 1, 2021 and expired on April 30, 2022 at which time the tenant was required to vacate the rental unit. However, the tenant still resides in the rental unit. Rent in the amount of \$1,380.00 is payable on the 1st day of each month and there are no rental arrears. On October 20, 2021 the landlord collected a security deposit and a pet damage deposit from the tenant in the amount of \$690.00 each, both of which are still held in trust by the landlord. The rental unit is a basement suite and the landlord resides in the upper unit of the house.

The landlord's agent further testified that the tenant hasn't paid the utilities, and the tenant's dog is barking and howling. The tenant doesn't clean up after the dog.

The tenant is aggressive to everyone including the landlord; yelling and screaming and swearing and said that he would damage the neighbour's property. The tenant also kicked a wall and slammed a door and the neighbour called the police. The neighbour does not reside on the rental property.

Analysis

A landlord may end a tenancy by giving a One Month Notice to End Tenancy for Cause. A landlord may also apply for an expedited hearing to obtain an Order of Possession if a serious incident or incidents have occurred on the residential property. The residential property of a neighbour who does not reside on the rental property is not an occupant of the rental property and therefore is not included in the legislation.

Although I accept the testimony of the landlord's agent that the tenant has been aggressive to everyone including the landlord; swearing, yelling and screaming, and the tenant threatened to damage the neighbour's property, I am not satisfied that the tenancy should end earlier than a notice to end the tenancy would take effect, and I dismiss the landlord's application for an Order of Possession.

Since the landlord has not been successful with the application, I decline to order that the landlord recover the filing fee from the tenant.

Conclusion

For the reasons set out above, the landlord's application is hereby dismissed in its entirety without leave to reapply.

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 23, 2022

Residential Tenancy Branch