



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes ET, FF

Introduction

This matter dealt with an application by the Landlord for an order ending the tenancy earlier than it would end if the Landlord was required to serve the Tenant with a Notice to End Tenancy for Cause and wait for the applicable notice period to take effect.

The Landlord said he served the Tenant with the Application and Notice of Hearing in person on July 2, 2009. I find that the Tenant was served as required by s. 89 of the Act and the hearing proceeded in his absence.

Issues(s) to be Decided

1. Is the Landlord entitled to end the tenancy early?

Background and Evidence

This tenancy started on June 19, 2009. The Landlord said that he told the Tenant when he moved in that no parties were allowed and the Tenant agreed. The Landlord claims, however, that on June 29, 2009 the Tenant had a party in the rental unit and a number of guests were on the balcony making noise. The Landlord said he approached the Tenant at about 9:30 p.m. and asked him when the party would be over and the Tenant said at 10:00 p.m. The Landlord claimed that sometime later he received a complaint from the tenant residing above the Tenant that there was an unreasonable amount of noise due to the Tenant's party.

The Landlord said he went to the rental unit again at 12:30 am to speak to the Tenant about ending the party but he told the Landlord to shut up. The Landlord advised the Tenant that he would be contacting the police but claimed that while he was walking away in the hallway, two of the Tenant's intoxicated guests pushed him against the wall and hit him with an open hand a number of times in the chest. The Landlord said he left and contacted the police however during that time the Tenant's two guests went outside and started throw rocks at a taxi cab. When the police arrived, the Tenant's two guests were taken away and held in custody over night.

The Landlord said the Tenant's two guests have not returned and the Tenant has not had any further parties since the incident.

Analysis

Section 56 of the Act says that a Landlord may apply to end a tenancy earlier than it would end if a Notice to End Tenancy for Cause under s. 47 of the Act had to be given. In order to succeed on such an application, the Landlord must show firstly that one or more of the grounds set out in subsection 56(2) of the Act exists and secondly that it would be unreasonable or unfair to have to wait for the notice period for a Notice to End Tenancy for Cause to take effect. As a result, orders granted under s. 56 of the Act are granted only in those cases in which there is an imminent threat of danger to the person or damage to property.

In refusing to comply with the Landlord's reasonable request to break up a party that was disturbing other tenants and in having guests who physically threatened the Landlord, I find that the tenant or a person permitted on the residential property by the Tenant significantly interfered with or unreasonably disturbed the Landlord. However, I also find that there is insufficient evidence that the Tenant or his guests pose an ongoing or present threat of harm to the Landlord. Consequently, I find that it would not be unreasonable or unfair to require the Landlord to end the tenancy in the usual way by serving the Tenant with a One Month Notice to End Tenancy for Cause.

In summary, although I find that there are grounds for ending the tenancy, I find that the circumstances are not so urgent that they warrant ending the tenancy on an expedited basis. Consequently, the Landlord's application for this remedy is dismissed and instead he will have to serve the Tenant with a One Month Notice to End Tenancy for Cause and apply for an Order of Possession under s. 47 of the Act. However, ***in the event that there is a repeat of threatening or violent behavior by the Tenant or one of his guests, the Landlord is at liberty to apply again for an early end to the tenancy.***

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: July 10, 2009.

Dispute Resolution Officer