



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

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 filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Does the landlord have cause to end the tenancy early?

Background and Evidence

The tenant entered into an employment contract with the landlord for a fixed term starting April 01, 2010 and ending on March 31, 2011. The tenant was employed as a Manager of the resort. As per the employment contract, the tenant was given the use of the rental unit for a period of one year ending March 31, 2011, at no additional cost to him. The compensation package included a monthly salary for seven months, housing for 12 months and other revenue from bookings at the resort.

On July 07, 2010, the landlord served the tenant with a 30 day notice to end tenancy as the employment had ended. The tenant applied for dispute resolution on July 08, 2010 and it is scheduled to be heard on August 31, 2010. The reason for the notice to end tenancy is that the employment has ended and the unit is needed for a new employee.

The landlord stated that he applied for an early end to tenancy based on his “extreme financial hardship”

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”.

The tenant has disputed the notice to end tenancy in a timely manner. This matter will be heard on August 31, 2010. Based on the documentary evidence and testimony of the parties, I am not persuaded that it would be unreasonable or unfair for the landlord to allow the tenant an opportunity to dispute the notice. I also find that the landlord’s “extreme financial hardship” is not grounds for an extraordinary remedy such as Section 56. For the above reasons, I dismiss the landlord’s application to end tenancy early.

Conclusion

The landlord’s application is dismissed and he must bear the cost of filing this application.

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: August 13, 2010.

Dispute Resolution Officer