



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes ET, FF

Introduction

This matter dealt with an application by the Landlords for an Order ending the tenancy earlier than it would end if the Landlords were required to serve the Tenants with a One Month Notice to End Tenancy for Cause and wait for the applicable notice period to expire. The Landlords also applied to recover the filing fee for this proceeding.

Issue(s) to be Decided

1. Do the Landlords have grounds to end the tenancy early?

Background and Evidence

This fixed term tenancy started on May 15, 2010, expired on February 15, 2011 and continued on a month-to-month basis thereafter.

On their application, the Landlords claim that the Tenants caused “major damage to the property” and “endangered the health of other residents by using bear spray in the hallways.” The Tenant (N.H.) claimed that on February 14, 2011, some unidentified persons threatened her by telephone, came to the rental property uninvited and sprayed pepper spray in the common areas when she would not open the door. N.H. said she hid in the bathroom of the rental unit and called the RCMP who attended and broke in the front door causing damage to it. The Tenants argued that they are not responsible for this incident or for the resulting damage to the door.

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 Landlords must show that one or more of the grounds set out in subsection 56(2) of the Act exists and that it would be unreasonable or unfair to have to wait for a Notice to End Tenancy under s. 47 of the Act to take effect. As a result, the Landlords must also show that the conduct complained of is so serious or urgent that it warrants eviction on an expedited basis.

I find that the incident of February 14, 2011 was of a serious nature and had the potential to endanger the health of other occupants of the rental property. However, the Landlords did not attend the hearing and provided no evidence that there was serious property damage, harm to others' safety or that the Tenants were in any way responsible for the incident. Consequently, I find that there is insufficient evidence to support the Landlords' application to end the tenancy early and it is dismissed without leave to reapply.

Conclusion

The Landlords' application is dismissed 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: March 21, 2011.

Residential Tenancy Branch