



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET

Introduction

This hearing dealt with an application by the landlord for an order ending the tenancy early and an order of possession. Both parties participated in the conference call hearing and gave affirmed testimony.

Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

Background and Evidence

On July 29, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

- significantly interfered with or unreasonably disturbed another occupant or the landlord
- seriously jeopardized the health or safety or lawful right of another occupant or the landlord
- adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord

The landlord testified that on or around August 5, 2011 when she was out in the garden that the tenant attacked her after they had an argument about a shovel the landlord was. The tenant testified that he had not attacked the landlord but had wrapped his arms around her when she appeared to be purposely damaging the garden which he had worked very hard to develop and maintain.

The police were called to attend by the tenant however both parties were simply advised to calm down.

The landlord stated that she was very afraid of the tenant as he curses and mutters under his breath all the time. The landlord referred to an incident when the tenant was working in the garden and his outburst upset her daughter. The tenant responded by

stating that he has a medical condition, that the landlord is aware of his medical condition and that he has taken great effort to control any verbal outbursts. The tenant stated that he had also apologized for having upset the landlord's daughter.

Analysis

In the present case the landlord has applied for an order ending the tenancy early on the basis that a person permitted on the residential property by the tenant has significantly interfered with and unreasonably disturbed other occupants of the residential property and that it would be unfair to the other occupants to wait for a one month notice to take effect.

I am not satisfied based on the evidence before me that the landlord has proved its case therefore the landlord is not entitled to an order of possession.

It is clear that the two parties have issues with one another however it has not been proven that there has been or will be a physical threat to the landlord or the landlord's guests. The incident of August 5, 2011 is a result of both the landlord and tenant responding to one another in an emotionally charged manner and I do not believe that the tenant intended this to be construed as an assault on the landlord.

The landlord's application is dismissed in its entirety.

The tenancy continues in full force and effect.

Conclusion

The landlord's application is dismissed and the tenancy will continue uninterrupted.

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 25, 2011.

Residential Tenancy Branch