



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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. The landlord was represented by his daughter.

Issues to be decided

Does the landlord have cause to end the tenancy early?

Background and Evidence

The tenant rents a self contained suite in the basement of the rental house. The upstairs is occupied by another tenant. This tenancy started in March 2013. The landlord stated that in November 2013, the tenant was given verbal notice to end the tenancy for landlord's use of property. The tenant requested more time to look for accommodation. Sometime prior to March 02, 2014, the landlord asked the tenant to sign a mutual agreement to end tenancy and the tenant refused to do so.

The landlord stated that she had not kept a copy of the agreement. In order to obtain a copy, the landlord requested a friend, SS who regularly visited the upper level of the rental home, to pick up the agreement from the tenant, during her next visit.

The testimony of both parties differed at this point. The landlord stated that SS approached the tenant while he was in his car and the tenant attempted to run her over. The tenant stated that SS refused to move and was standing beside the front passenger door, talking to him. He drove away and SS proceeded to fall and roll on the ground. The tenant maintained that the entire "accident" was a set up and he did not injure SS with his vehicle. SS's fiancée recorded this event and the landlord filed a copy of the video into evidence.

The police and ambulance arrived and upon questioning the tenant, the police closed the file and did not lay charges. The landlord stated that SS visited her family doctor and is in the process of filing a claim through ICBC.

The landlord went on to say that the tenant had not paid rent for March and that she wanted the tenancy to end because of a deteriorating relationship between this tenant and the upstairs tenant.

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” .

Based on the documentary evidence and testimony of the parties, I find that I prefer the testimony of the tenant. The video shows SS standing beside the tenant’s vehicle and after the tenant drove away, she proceeds to fall and roll on the ground. The police did not find any reason to charge the tenant.

I further find that the landlord wants the tenancy to end for other reasons which are not related to any danger or threat of imminent harm of an extreme nature that warrants an immediate removal of the tenant. Based on the testimony of both parties I find that the landlord has not proven her case for an early end to tenancy and therefore, I dismiss the landlord’s application to end tenancy early.

Conclusion

The landlord’s application is dismissed and she 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: March 21, 2014

Residential Tenancy Branch

