



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET, FF

Introduction

This hearing dealt with an application by the landlord seeking an early end of tenancy and to obtain an order of possession and to recover the filing fee for this application. Both parties attended the hearing and were given full opportunity to give evidence and make submissions. Both parties gave affirmed evidence.

Preliminary Issue

The landlord stated that she had “dropped off” 15 pages of documentary evidence at the Branch. The landlord was unable to provide a date of when she did that. In addition, the tenant stated that she did not receive the landlords’ documentary evidence. The landlord stated that she has another hearing with this tenant on August 25, 2016 and believes that she asked to have the evidence submitted for this hearing. The Residential Tenancy Rules of Procedure addresses this issue as follows:

3.2 Evidence relating to an early end to a tenancy

When a landlord is seeking an early end to the tenancy, the landlord must submit to the Residential Tenancy Branch directly or through a Service BC office all evidence with the Application for Dispute Resolution, or, when applying for dispute resolution online, the next day. All evidence to be relied on at the hearing must be served on the respondent with the hearing package described in Rule 3.1.

I have made inquiries and reviewed the online file management system to see if any evidence was submitted for this hearing; no documentary evidence was submitted for this hearing by the landlord except for one page that was a photocopy of a police constables business card. This was explained to both parties and both parties indicated they understood. The hearing proceeded and completed on that basis.

Issues to be Decided

Is the landlord entitled to an early end of tenancy and an order of possession?
Is the landlord entitled to the recovery of the filing fee?

Background and Evidence

The landlords' testimony is as follows. The tenancy began sometime in 2011. Rent in the amount of \$1075.00 is payable in advance on the first day of each month. The landlord stated that she wants the tenant to move out. The landlord stated that the tenant was a very good one until about 4-6 weeks ago. The landlord stated that the tenant's brother was released from prison and has been a bad influence on her. The landlord stated that she thinks her brother introduced her to another "jailbird" and has caused the tenant to change.

The landlord stated that the police came to execute a warrant on the tenants' boyfriend and that it caused such a ruckus, other tenants have made complaints. The landlord stated she wants the tenancy to end as soon as possible.

The tenants' testimony is as follows. The tenant stated that she was asleep when the police came to the door and didn't hear them. The tenant stated that her young son was also sleeping and wasn't awoken by them. The tenant stated that she's not sure why the police came. The tenant stated that there have not been any issues prior to or since this one night. The tenant stated that she is making attempts to move in the next month or two and is willing to come to some settlement with the landlord. The tenant stated that she was really at a loss other than to say the police have still not spoken to her so she's unsure as to why they attended.

Analysis

While I have turned my mind to the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the landlord's claim and my findings around each are set out below.

When a landlord makes an application for an early end to tenancy, the landlord has the burden of proving that:

1. there is cause for ending the tenancy, such as unreasonably disturbing other occupants, seriously jeopardizing the health and safety or lawful right or interest of the landlord and placing the landlord's property at significant risk; and
2. that it would be unreasonable or unfair to the landlord or other occupants to wait for a one month Notice to End Tenancy for cause under section 47 of the Act to take effect.

The landlord's testimony lacked details; specifically the alleged date, time, witnesses and account of the incident that caused her to make this application. In the landlords own testimony she stated "I can't prove the police came for her boyfriend but that's what I think". The landlord stated "I think" on several occasions and speculated as to what she believed the tenant was involved in without providing sufficient supporting evidence. The landlord stated that "I get my dates mixed up and I keep losing paper". I find the landlords testimony to be inconsistent and unreliable.

In this case, I am not satisfied that the landlord has met either part of the test as outlined above. Based on the insufficient evidence before me and on a balance of probabilities, I dismiss the landlords' application.

Conclusion

The landlords' application is dismissed. The tenancy continues.

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 08, 2016

Residential Tenancy Branch