



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ET FF

Introduction

This hearing was convened by way of conference call in response to a Landlord's Application for Dispute Resolution to end the tenancy early and obtain an Order of Possession, and to recover the filing fee from the Tenant.

Both parties appeared for the hearing and provided testimony. The Landlord testified that the Tenant was served with a copy of the Application and the Notice of Hearing documents, as well as documentary evidence by posting it to the Tenant's door on February 8, 2018. The Tenant confirmed receipt of this package.

Based on the evidence before me, I find the Landlord effected service to the Tenant pursuant to Section 89(1) (c) of the *Residential Tenancy Act* (the "Act"). The Tenant confirmed that he had not provided any documentary evidence prior to this hearing.

All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Landlord entitled to end the tenancy early and obtain an Order of Possession?

Background and Evidence

Both parties agree that the tenancy began in the fall of 2017, and that rent in the amount of \$1,000.00 is due on the first of the month.

The Landlord stated that there are two rental units in the building and the Tenant has had many negative interactions and arguments with the person who lives on the main floor of the house, above the Tenant. The Landlord stated that there are shared laundry facilities in the house, and this was the source of many of the fights between the Tenant and the people living above him. The Landlord stated that the police have been called numerous times by the tenant upstairs and they are tired of dealing with the issues between these two rental units. The Landlord stated that the Tenant's son was staying in the unit for a while, but he has now moved out. The Landlord further stated that the Tenant's son was the source of some disturbances and fights because he had a temper. The Landlord referred to a letter from the tenant upstairs, detailing some of the interactions and issues.

The Tenant stated that his son has now moved out of the unit and the only reason police were called to the unit was because the Tenant upstairs was trying to get them evicted. The Tenant stated that the upper tenant would fabricate stories to tell the police and the Landlord, and exaggerate many issues that were happening to try to get them to leave. The Tenant stated that one day when he went to use the laundry facilities (shared with upper unit), the door was locked. The Tenant stated that the occupant upstairs locked them out because she was upset that he was doing laundry too late at night; this is largely what started the degradation in relations. The Tenant acknowledges that he was banging on the door when he was locked out because there was no basis for him to be kept from using the laundry.

The Tenant stated that the person living upstairs accused him of smoking when he wasn't. The Tenant denies that any threats have been made to the upstairs tenant. The Tenant stated that the tenant upstairs wrote an email to the Landlord and that it is full of fabricated evidence and exaggerations. The Tenant stated that the dysfunction is largely related to the incident regarding access to the laundry facilities, and he has never been threatening to the person upstairs. The Tenant acknowledged that there was an incident where his son had too much to drink and got in a fight with him, but this was a one-off incident and was just a disagreement between him and his son, who has now moved out. The Tenant stated that this really has no bearing on his relationship with the person upstairs. The Tenant stated that the occupant upstairs has been spying on him. The Tenant acknowledged getting a copy of the Landlord's evidence package and after reading the letter from the Tenant upstairs, he feels it is full of lies and exaggerations.

The Tenant stated that he is actively looking for another place to live because he is not happy with the living situation.

Analysis

An early end of tenancy is an expedited and unusual remedy under the Act and is only available to the landlord when the circumstances of a tenancy are such that it is unreasonable or unfair to a landlord or other residents to wait for a notice to end tenancy to take effect, such as a notice given under Section 47 of the Act for cause. Therefore, in this case the Landlord bears a strict burden to prove with sufficient evidence that the tenancy should end early Section 56 of the Act.

An application for an early end of tenancy under section 56 of the Act is reserved for situations where a Tenant poses an immediate and severe risk to the rental property, other occupants, or the Landlord. An application for an early end of tenancy is such that a Landlord does not have to follow the due process of ending a tenancy by issuing a notice to end tenancy which gives the Tenant the right to dispute the Notice by applying for dispute resolution.

Under section 56 of the Act, the director may end a tenancy and issue an order of possession only if satisfied, there is sufficient cause; and, it would be unreasonable, or unfair to the Landlord or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect.

I have carefully considered the evidence of both parties and I make the following findings in this dispute. It is clear based on the testimony from both parties that the relationship between the Tenant and the occupant of the upper suite has degraded significantly. The Landlord has provided a letter from the occupant upstairs detailing some of the issues, but the Tenant refutes this version of events and says it is untruthful and exaggerated. The Tenant stated that most of the issues stem from an incident where the occupant upstairs locked them out of the laundry room. Since that time, their relationship has gone downhill.

I note that both parties disagree on the nature and extent of the disputes that have occurred so far between the Tenant (and his son) and the occupant of the upper unit. Although it is clear that some dysfunction is occurring, I find the Landlord's disputed evidence of the incidents is insufficient to substantiate that there is cause to end the tenancy. As a result, I am unable to end this tenancy early, without further evidence from the Landlord.

Given the Landlord was not successful in this hearing, I decline to award her the recovery of the cost of the filing fee she paid to make this application.

Conclusion

The Landlord has not met the burden to prove the tenancy should end early. Therefore, the Landlord's Application is dismissed without leave to re-apply and the tenancy will continue until such time it is ended in accordance with the Act.

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 15, 2018

Residential Tenancy Branch