



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION AND REASONS

### Dispute Codes

ET & FF

### Introduction

This hearing dealt with an application by the landlords seeking to end this tenancy early pursuant to section 56 of the *Act*. Although the tenant was served with notice of this hearing and application in person on April 6, 2009, she did not appear for the hearing. Being satisfied that the tenant was properly served with notice of this proceeding, I proceeded with the hearing in the tenant's absence.

### Issue to be Determined

Should this tenancy be ended early pursuant to section 56 of the *Act*?

### Background and Evidence

This tenancy began on November 1, 2008 for the monthly rent of \$850.00 plus 60 percent of the utilities. The tenant paid a security deposit of \$400.00 on October 31, 2008.

The landlords have had significant difficulty with the tenant since the tenancy began including problems with having the rent and utilities paid on time. These problems have escalated and lead to the circumstances which have left the landlords concerned for their own safety and for the safety of their property.

The landlords stated that they have attempted to collect outstanding utilities on March 21, 23<sup>rd</sup>, 25<sup>th</sup>, and 27<sup>th</sup> and to collect both the utilities and rent on March 30, 2009. The tenant had previously agreed to pay the outstanding utilities owed on March 21, 2009. On March 27, 2009 the landlords stated that the tenant was extremely aggressive and was yelling when they attempted to collect the utilities. The landlords stated that the tenant threatened to damage the rental unit and was stating that she was being harassed.

On March 30, 2009 one of landlords went to collect the rent and utilities. She stated in the hearing that the tenant was again yelling and being aggressive. The landlord stated that the tenant began threatening her and telling her that she was trespassing. The tenant eventually pushed the landlord out the door of the rental unit and she fell twisting her ankle. The tenant had called the police before the tenant pushed the landlord.

Although the police officer was advised of what had transpired and apparently witnessed the tenant making continued threats, he did not press any charges. It appears that the police officer felt that the tenant understood she had a right to keep the

landlord out of the rental unit but did warn the tenant that if this behaviour continued she could be charged.

The landlords also stated in the hearing that the tenant has failed to pay the outstanding utilities and rent owed for April 2009. A 10 day Notice to End Tenancy has been issued. The landlords also alleged that the tenant has been using illegal drugs in the rental unit and provided two letters from contractors working at the rental unit who confirm smelling pot and seeing drug paraphernalia in the tenant's rental unit.

In addition to the above, the landlord's submit the following allegations of breach of the tenancy agreement by the tenant:

- Failure to care and maintain the rental unit by not taking the garbage out;
- Bringing in two cats to the rental unit even though pets were not part of the tenancy agreement; and
- An excessive number of occupants in the rental unit.

### Analysis

Section 56 of the *Act* provides that a tenancy may be ended early without service of a one month Notice to End Tenancy if it can be shown that it would be unreasonable or unfair to wait for a one month Notice to End Tenancy to take effect. An early end to a tenancy is only given in exceptional circumstances.

All of the issues raised by the landlords, such as repeated late payment of rent, pets in the rental unit, and unreasonable number of occupants all have a remedy under section 47 of the *Act* by issuing a one month Notice to End Tenancy. Similarly, when the tenant failed to pay the rent or the utilities the landlords have a remedy under section 46 of the *Act* to issue a 10 day Notice to End Tenancy and can file an application for dispute resolution seeking an Order of Possession if the tenant fails to respond to the notice.

The legislation acknowledges these types of breaches of contract but has balanced the rights of landlords and tenants by giving specific timeframes on which the landlord can exercise their rights. Section 56 is the only means of circumventing those timelines.

The escalating issue in the circumstances before me is the pushing that occurred between the landlord and the tenant on March 30, 2009. It is clear that this was very upsetting to the landlords and combined with the other breaches of the *Act* I empathize with the landlords' position that an early end to the tenancy is warranted. However, the evidence does not support the conclusion that these are exceptional circumstances or that it would be unreasonable or unfair to wait for a one month Notice to End Tenancy to take effect.

I come to this conclusion on the basis that the landlords unintentionally contributed to the escalation of events on March 30, 2009. The evidence is clear that the tenant was unwilling or unable to pay the outstanding utilities and that the tenant did not want the landlords coming to the rental unit. From the evidence this was clearly communicated to the landlords on March 27, 2009 when the tenant first stated that she felt harassed and that she would call the police. Despite this the landlord attended the rental unit again on

March 30, 2009 and caused a further confrontation which resulted in the pushing. I also find that the nature of the pushing was not extreme and does not represent an immediate and present danger to the health and safety of the landlords. This conclusion is supported by the fact that the police did not take further measures to intervene at the time of the altercation.

The proper action that the landlords should be taking is to pursue their rights under the *Act* by filling an application for dispute resolution based on the 10 day Notice to End Tenancy served due to non-payment of rent or to serve the tenant a one month Notice to End Tenancy for cause. The landlords should also take reasonable measures to avoid any further situations which could lead to an escalated confrontation.

### Conclusion

For the above reasons I find that it would not be unfair or unreasonable for the landlords to wait for a one month Notice to End Tenancy pursuant to section 47 of the *Act* to take effect and I deny the landlords request for an early end to this tenancy.

Dated April 16, 2009.

---

Dispute Resolution Officer