



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Decision

### Dispute Codes:

ET

### Introduction

This Dispute Resolution hearing was convened to deal with the landlord's application seeking an order to end the tenancy early without notice to the tenant.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail sent April 21, 2009, the Tenant did not appear.

### Issue(s) to be Decided

The landlord is seeking an Order of Possession based on section 56(1) of the *Residential Tenancy Act*, (the *Act*), which permits the landlord to end a tenancy without notice to a tenant in certain restricted and compelling circumstances. In making a determination on this matter, the following issue must be to be decided based on the testimony and the evidence presented during the proceedings:

- Has the landlord established sufficient proof that the criteria contained in section 56(2) of the *Act* has been met to justify ending the tenancy and entitle the Landlord to be granted an Order of Possession under the *Residential Tenancy Act*, (the *Act*). This requires a determination of whether both of the following has occurred:
  - a) the tenant or a person permitted on the residential property by the tenant has significantly interfered with or unreasonably disturbed , seriously jeopardized the health or safety or a lawful right or interest of the landlord or other occupants, or has put the landlord's property at significant risk or engaged in illegal activity that has resulted in causing damage, and affecting

the quiet enjoyment, security, safety, physical well-being, lawful right or interest of another occupant of the residential property,

and

- b) 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 *[landlord's notice: cause]* to take effect.

### **Background and Evidence**

Submitted into evidence by the landlord was a written statement explaining the reasons for the landlord's request to end the tenancy early without notice, a copy of a One-Month Notice to End Tenancy for Cause dated April 1, 2009 and purporting to be effective on May 1, 2009 and a copy of the tenancy agreement.

The landlord, testified that the tenant moved into the complex in February 2009 and that numerous serious problems have occurred. The landlord testified that, shortly after the tenant moved in, the occupant below the tenant's unit contacted the landlord with a complaint regarding water flooding into the first floor unit from the unit above. The maintenance person for the complex was called in to investigate and found that the tenant had tampered with the kitchen plumbing by disconnecting the water supply. Despite a warning from the landlord, a second incident of flooding occurred about a week later and the maintenance person was again sent to investigate the complaint from the occupants below the tenant. In addition to the incidents of flooding, ongoing complaints about nightly noise, arguments and fights have been received and one long-term resident living on the floor above the tenant is considering moving because of the disruption. The landlord testified that, given the situation, it would be unreasonable and unfair to wait for a Notice under section 47 to take effect.

The maintenance supervisor for the complex testified that approximately 3 or 4 weeks ago he was called in to address a situation on the first floor where water from the kitchen in the unit directly above was flooding the unit. The witness testified that when he investigated the tenant's unit to find the source of the leaking, he found that the tenant had disconnected both the cold and hot water

supply lines under the kitchen sink and had unsuccessfully attempted to attach a section of hose with an adapter to the water lines in an apparent effort to connect a washing machine. The witness testified that he recognized the section of hose and the adapter as being piping that was missing from the common laundry room situated on the first floor of the complex. The witness testified that the tenant was then told not to tamper with the plumbing and it was pointed out that the lease signed by the tenant did not allow additional appliances to be connected. The witness testified that approximately one week later, he again received a report of flooding in the first-floor unit below the tenant's. It was evident that the water leakage was coming from the tenant's bathroom this time. However, the tenant denied the landlord entry to the bathroom. The witness also testified that there have been several incidents of damage and vandalism in the common areas adjacent to the tenant's unit and there is a strong suspicion that the tenant or guests of the tenant may be responsible for the damage.

### **Analysis**

Section 56 of the Residential Tenancy Act provides that a landlord may make an application for dispute resolution to request an order ending a tenancy on a date that is earlier than the tenancy would end if notice to end the tenancy were given under section 47 [*landlord's notice: cause*], and granting the landlord an order of possession in respect of the rental unit.

Before issuing an Order ending the Tenancy under section 56 a Dispute Resolution Officer must be satisfied under section 56(2) that

a) the tenant or a person permitted on the residential property by the tenant has done any of the following:

- significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;
- seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- put the landlord's property at significant risk;

Has engaged in illegal activity that:

- has caused or is likely to cause damage to the landlord's property,
- has adversely affected or is likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property, or
- has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- caused extraordinary damage to the residential property, and

(b) 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 *[landlord's notice: cause]* to take effect.

Based on the testimony of the landlord and the witness, I find that this situation does satisfy the criteria specified in section 56(2)(a) of the Act . Because of the nature of the conduct in question and the fact that it persisted even after the tenant was warned, I find that the circumstances also meet the second threshold under 56(2)(b) and I find 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 *[landlord's notice: cause]* to take effect. I find that the Landlord has been exposed to the potential of serious liability, the other residents are at risk and the situation needs to be addressed in an urgent manner without further delay.

### **Conclusion**

Accordingly, I hereby order that this tenancy is ended and grant the Landlord an Order of Possession. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

May 2009

Date of Decision

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Dispute Resolution Officer