



# 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.

Despite being served in person with the Notice of Hearing on September 23, 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 granting 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 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 without notice. The landlord testified that on August 1, 2009, the landlord entered into a tenancy with tenants, D & N, who occupied the two-bedroom unit. The landlord testified that in September 2009, these tenants added another occupant to the tenancy who was sharing the unit. According to the landlord, the new occupant paid an additional \$150.00 to the landlord to compensate for the additional occupancy costs. However, shortly thereafter, the two original tenants gave notice that they were ending the tenancy and a mutual agreement was made with the landlord to end the tenancy and to transfer the tenants to a different one-bedroom unit. The landlord testified that the expectation was that the two-bedroom unit would be left vacant. However, the landlord found that the lone occupant has refused to leave despite the tenancy being ended by the tenants.

The landlord testified that the remaining occupant, who the landlord does not consider to be a tenant has terrorized the other residents in the building with abusive language and unacceptable behaviour. The landlord has attempted to discuss the situation with the occupant but he refuses to relinquish possession of the unit.

### **Analysis**

The Act provides that a landlord is entitled to end a tenancy without notice to the tenant in situations where the tenant has: significantly interfered with or unreasonably disturbed another occupant or the landlord; seriously jeopardized the health or safety or a lawful right or interest of another occupant or the landlord; put the landlord's property at significant risk; or engaged in illegal activity that has,

or is likely to damage the landlord's property, adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant, jeopardize a lawful right or interest of another occupant or the landlord or cause extraordinary damage to the residential property AND the landlord successfully that 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.

Where a tenant allows a person who is not a tenant to move into the premises and share the rent, the new occupant has no rights or obligations under the tenancy agreement, unless all parties agree to enter into a tenancy agreement to include the new occupant as a tenant. In this instance, I find that the occupant has not established an independent tenancy and is not even considered to be a co-tenant of the tenants previously in possession of the unit. I find that the previous tenants had successfully reached a mutual agreement with the landlord to vacate the unit and turn over possession to the landlord on consent. I find that the agreement is binding on all parties, including any occupants of the unit.

By virtue of the tenant and landlord's mutual agreement, I find that the landlord was already entitled to vacant possession effective immediately.

I find that this situation, in which a lone occupant with some prior connection to the previous tenants is now refusing to vacate and has remained in the unit without any entitlement to do so, meets the criteria under section 56 of the Act. I find that the tenant has significantly interfered and unreasonably disturbed the landlord and I am satisfied that it would be unreasonable and unfair to the Landlord to be required to issue a section 47 notice to tenants who are not longer residing in the unit, and who have already willingly vacated pursuant to the mutual agreement. Having found that all of the criteria under section 56(1) is satisfied to justify an immediate end to the tenancy, I find that an Order of Possession is warranted.

**Conclusion**

Accordingly, I hereby order that this tenancy is ended and grant the Landlord an immediate 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.

September 2009

Date of Decision

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Dispute Resolution Officer