



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      ET

### Introduction

This hearing was scheduled in response to the landlords' application for Dispute Resolution, in which the landlord has applied for an Order of Possession on an Early End to Tenancy.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and were hand delivered to the tenants on December 14, 2009.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party and witnesses, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issues(s) to be Decided

The issues to be decided are whether the landlord is entitled to end the tenancy early; gain an Order of Possession on the basis of his application to end the tenancy pursuant to section 56 of the *Act*.

### Background and Evidence

This tenancy started for the male tenant on January 01, 2009 and for the female tenant on May 01, 2009. This is a fixed term tenancy for the male tenant until December 31, 2009 and for the female tenant until May 2010. The tenants pay rent of \$375.00 each month and their share of utility bills in addition to this amount.

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The landlord testifies that the tenants have caused a disturbance of the peace in the rental property and the neighbourhood. There have been many incidents of fighting, shouting and loud noise coming from the rental unit which has disturbed other tenants and the neighbours. The tenants have allowed prostitutes to reside at the property and conduct business from the property and the landlord has concerns about illegal substances being dealt and used from the property. The landlord testifies that the RCMP have been called out 18 times this year which also disturbs other residents and neighbours.

The landlord also testifies that the three tenants living upstairs have complained about the tenants downstairs concerning the issues mentioned and have now moved from the property. The landlord testifies that eight neighbours have signed a petition about the events happening at the property with prostitutes, high noise levels, fighting, alarming amount of visitors late at night. The neighbours are concerned about their safety and security of their homes and property due to the past events concerning the two tenants.

The landlord also testifies that he has had complaints from neighbours, the upstairs tenants and the City about the high levels of garbage left around the property and the landlord has received a letter from the city concerning his unsightly premises. The landlord testifies that he has cause for concern about the tenants window being covered with plywood and a surveillance camera being mounted above the window.

The landlord has submitted as evidence photographs of the garbage , the tenants window and surveillance camera, the interior of the property with numerous damage to walls and doors, police file numbers, letter from the city and the neighbours.

The tenants dispute the landlords' allegations. They testify that it was the landlord who allowed prostitutes to reside at the property. They testify that the landlord was aware that the tenant had a problem with drugs and was a recovering cocaine addict. The male tenant testifies that he did have a relapse due to the pressure of living in a house with other drug users but has since returned to his program. The male tenant testifies that he was often locked in his room because of the other tenant's behaviours and he was in fear of his safety.

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The tenants testify that it was other tenants who have since left the property that damaged the walls and doors. They testify that the tenants' window was broken by another person and he had to cover it with plywood and since July, 2009 the landlord has not replaced the glass in the window. The tenants also testify that the surveillance camera was put in place to see if it worked so it could be sold.

The tenants testify that the garbage is not theirs but belonged to other tenants. These tenants have tried to have the garbage collected but the garbage collectors refuse to take it.

The male tenant testifies that at one time he did get into arguments with the female tenant and her brothers but that has now been sorted out and they have reached an amicable agreement between them. The tenant testifies that the landlord has served them with numerous Notices to end the tenancy because the landlord has sold the property. Since the prostitutes have left the property there has been no more problems. The tenant has made an application to cancel the notices to end tenancy and has a hearing in January 2010.

The landlords witness confirms the landlords' evidence about cars coming and going all day and night. She confirms the large amount of garbage at the property and testifies that there is loud noise from the property at night including a car playing very loud music.

## Analysis

Section 56(2) of the *Act* authorizes me to end a tenancy earlier than the tenancy would end if Notice to End Tenancy were given under section 47 of the *Act* and grant an Order of Possession for the rental unit if the tenant or persons permitted on the residential property by the tenant has done any of the following:

- (i) significantly interfered with or unreasonably disturbed another occupant or the landlord of the residential property;

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- (ii) seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant;
- (iii) put the landlord's property at significant risk;
- (iv) engaged in illegal activity that
  - (A) has caused or is likely to cause damage to the landlord's property,
  - (B) 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
  - (C) has jeopardized or is likely to jeopardize a lawful right or interest of another occupant or the landlord;
- (v) 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.

(3) If an order is made under this section, it is unnecessary for the landlord to give the tenant a notice to end the tenancy.

I find that the landlord has provided sufficient evidence, pursuant to section 56 of the *Act*, to show that the tenant or persons permitted on the property have significantly interfered with or unreasonable distributed other occupants of the residential property and the neighbours. The letter from his neighbours does show that there is an unreasonable amount of disturbance and activity taking place at the rental property damage has been caused to the rental unit and although the landlords evidence has been contradicted by the tenants I find that I prefer the landlords evidence in line with all the other supporting evidence concerning the garbage, noise, fighting, and illegally substances being kept and used on the premises. I therefore find that the landlord has provided sufficient evidence to show that grounds exist to end the tenancy early, and as a result it warrants an Order for an Early End to Tenancy. I find it would be unreasonable, or unfair to the landlord or other occupants of the residential property, to wait for



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a notice to end the tenancy under section 47 [*landlord's notice: cause*] to take effect. Therefore, the landlords' application is upheld and an Order of Possession has been issued.

## Conclusion

I HEREBY ISSUE an Order of Possession in favour of the landlord effective two days after service on the tenants. This order must be served on the Respondents and may be filed in the Supreme Court and enforced as an order of that Court.

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: December 23, 2009.

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Dispute Resolution Officer