



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      ET, FF

### Introduction

This hearing was scheduled in response to the landlord's application for Dispute Resolution, in which the landlords have applied for an Order of Possession on an Early End to Tenancy and to recover the filing fee paid for this proceeding.

The landlords stated that the application and Notice of hearing was given in person to the tenant on December 24, 2009. The tenant confirmed he had received them on this date.

### Issues(s) to be Decided

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

### Background and Evidence

This tenancy started originally on September 01, 2008 for a fixed term of one year. The tenancy was renewed on September 01, 2009 for another one year fixed term which is due to end on August 31, 2010. The tenant pays rent of \$2,200.00 each month which is due on the first of each month. The tenant paid a security deposit of \$1,100.00 on July 04, 2008.

The landlords testify that they received a letter from the City providing a Notice for Inspection of the rental unit because they believed the conditions in the home may pose a risk to public safety because of unusually high consumption of electricity. An inspection was carried out but there was inconclusive evidence to determine what caused the unusually high electricity consumption.

The landlords testify that this letter caused them some concern and they arranged a home buyer's inspector to carry out an independent inspection of the property. They gave the tenant sufficient notice to enter the rental property to conduct this inspection. The inspectors report details that most areas of the property inspected were acceptable with some marginal areas that

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require attention. The inspectors final comments in the report state that it was observed that some evidence in the home indicates either a grow-op was at one time in operation or an intention is to install a grow-up. The inspector details that: 1) A large hole exists in the lower side of the electric panel and the wiring looks to be disturbed, a heavy electrical flex cable was observed in the garage. The wall beneath the panel had been removed and replaced, the patch was incomplete. 2) There are signs of moisture on the kitchen ceiling below the master bedroom, repaired damage to the ceiling in the master bedroom matched the spacing of the hooks in a piece of plywood stored in the garage. 3) Many plastic pots (1.5 gal+/-) were stored in the closet of the two bedrooms. The landlord testifies that when the inspector attempted to inspect the bedroom closets the tenants son had placed a large piece of board over the doors and was guarding the closets. He became aggressive when he was asked for access to the closets.

The landlords testify that although they conducted three monthly inspections at the property these were often postponed by the tenants and they not allowed access to some areas of the home such as the bathroom and master bedroom. The landlords also testify and have provided photographic evidence of rewiring in the crawl space, some damage to the ceiling and walls in the master bedroom and kitchen and evidence of other electrical items found at the property which suggest that the tenant has operated a grow-up from the property.

The landlords testify that the tenant did not like them coming to the property to collect rent and always agreed to meet them away from the property when he paid his rent.

The tenant disputes the landlord's claims that he has or intends to operate a grow-up from the property. The tenant testifies that he is an electrician and works for BC Hydro so has electrical equipment at the home. He testifies that he did not have access to the crawl space and did not rewire any sections of the house or electrical box. The tenant claims the repairs to the ceiling and walls in the master bedroom were done after he had hung some shelves and a flag. He testifies that the landlord was not happy with the way he had repaired the holes. He also testifies that his son was storing the plastic containers found in the closets for a friend without the tenants' knowledge.

The tenant testifies that the high consumption of electricity was due to having to operate four air conditioner units during the hot summer and he was only 16 kilowatts over the limit. One of the air conditioner units was old and used a lot of extra power. The tenant also claims that the water damage to the kitchen ceiling was caused by a leak from the toilet upstairs. The tenant testifies that the boarding and shelves were used to hang his electrical cords from and they were in the garage not the master bedroom as claimed by the landlord. The tenant states that he could not have operated a grow-up as the landlord inspected the property every three months and had full access to the house except on one occasion when his son was taking a shower.

## 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;
- (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

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(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 landlords have provided inconclusive evidence, pursuant to section 56 of the *Act*, to show that the tenant has engaged in an illegal activity which has put the landlord's property at significant risk to warrant an early end to the tenancy. While I am satisfied that there is some evidence, including an independent report from a home inspector, to suggest that a grow-up has or is intended to be put in place at the rental property and some marginal damage has been caused at this time I am not satisfied that an Early End to Tenancy is called for in this instance and it would not be unreasonable or unfair to the landlords to wait for a Notice to End Tenancy under section 47 (landlords notice: cause) to take effect.

### Conclusion

The landlord's application for an Early End to Tenancy is dismissed without leave to reapply and the tenancy may continue at this time. As the landlords have been unsuccessful with their application they must bear the cost of filing their own application.

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: January 04, 2010.

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Dispute Resolution Officer