



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      ET, OP, MNR

### **Introduction**

This hearing was convened in response to the landlord's Application for Dispute Resolution. In that Application the landlord seeks:

1. An Order Ending the Tenancy Early;
2. An Order of Possession;
3. A monetary Order for unpaid rent.

The landlord testified that he served a 10 day Notice to End Tenancy on the tenant personally on December 2, 2009. On December 21, 2009 the landlord filed this Application for Dispute Resolution. The landlord testified that he served the tenant personally with the Application for Dispute Resolution on December 22, 2009. I will accept the landlord's evidence that he served the tenant personally on December 22, 2009.

The tenant did not appear at the hearing. The landlord appeared and gave evidence under oath.

### **Background and Evidence**

The landlord says the tenant is repeatedly late paying rent. The landlord testified that the rent is \$560.00 per month and the tenant has not paid rent for November or December and she still owes \$110.00 from October. The landlord says that the tenant has not now paid rent for January 2010 so the rental arrears currently owing are \$1,790.00.

### **The Law**

Section 56 of the Act says that a landlord may make an application for dispute resolution to request an order

- (a) 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] or 57.41 [notice to end tenancy: tenant's needs], and

(b) granting the landlord an order of possession in respect of the rental unit.

And that the director may make an order specifying an earlier date on which a tenancy ends and the effective date of the order of possession only if satisfied, in the case of a landlord's application, either that:

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 interests of the landlord or another occupant.
- put the landlord's property at significant risk;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property;
- engaged in illegal activity that 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;
- engaged in illegal activity that 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

it would be unreasonable, or unfair to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 [landlord's notice: cause] or 57.41 [notice to end tenancy: tenant's needs] to take effect.

## **Findings**

The evidence is that the landlord served the tenant with a 10 day Notice to End Tenancy for unpaid rent. However, the landlord did not proceed with an Application for Dispute Resolution seeking an Order of Possession based on that 10 day Notice. Instead, the landlord chose to proceed with an expedited Early End of Tenancy Application normally reserved for emergency situations.

At the hearing, the landlord testified that he realized he had made a mistake in making this Application for an Early End of Tenancy and confirmed he really wished an Order of Possession because the tenant was not paying her rent. The landlord then went on to

say that the tenant is carrying on business as a prostitute in the rental unit. Further that he should have been afraid to serve her with a Notice to End Tenancy.

Based on the testimony of the landlord I find that he has failed to prove that any of the circumstances described above exist such that it would be unreasonable or unfair to the landlord or other tenants to serve the tenant with a notice to end tenancy under Section 47 and wait for that notice to take effect. In fact the evidence shows that the landlord did serve a notice on the tenant. The landlord application for an Order of Possession based on this application for an early end of tenancy is therefore dismissed with the effect that this tenancy will continue.

The landlord has also made an application for a monetary order for rental arrears. Section 2.3 of the rules of procedure allows a Dispute Resolution officer to dismiss unrelated disputed contained in a single application with or without leave to apply. An application for an early end of tenancy is reserved for emergency situations such as a result of the possible threat to persons or property it is an expedited application it is an application normally heard on its own. I will dismiss the landlord's claim for a monetary order with leave to reapply.