

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing dealt with the Landlords' Application for Dispute Resolution, seeking an order under section 56 of the Residential Tenancy Act, for an early end of tenancy and an order of possession.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, to present witnesses, to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues(s) to be Decided

Are the Landlords entitled to an early end to the tenancy and an order of possession?

### Background and Evidence

The Landlords are alleging that from the outset of this tenancy, which began April 1, 2010, the Tenant has significantly interfered with or unreasonably disturbed other residents at the rental unit. The rental unit is composed of several different rooms rented out to different tenants. These are shared kitchen and showering/washroom accommodations.

The Landlords allege the Tenant does not use the vent fan over the stove and has set off the fire alarm on several occasions at the rental unit. They also allege the Tenant pushed an elderly occupant at the rental unit.

The Landlords had the elderly occupant as a witness at the hearing, however, this witness required a translator as her facility with English was limited. Nevertheless, the evidence provided by this witness was of little help, as the Landlords led the witness in her answers and in the translations. The translator also provided testimony which did not originate from the witness.

A second witness was called and she testified that the smoke alarm has gone off three or four times since the Tenant moved in. The witness was not in the kitchen at the times the alarm went off, although she alleges the Tenant was cooking at these times. The witness also had some testimony about a noisy clothes washing machine, however, the witness could not testify that the Tenant had intentionally caused the noise to occur.

There were also letters in evidence from the other occupants regarding the Tenant, alleging noise and extended use of the washroom and shower facilities.

### Analysis

Based on the foregoing, the testimony and evidence, and on a balance of probabilities, I **find that the Landlords' claim for an early end of tenancy must be dismissed.**

Section 56 of the Act is an extraordinary remedy, which allows a landlord to have a tenant evicted prior to the effective end date in a Notice to End Tenancy if there is significant, serious, or illegal activity occurring.

The tenancy situation described by the Landlords here is upsetting as it appears there is a conflict between the Tenant and the other occupants, however, I am unable to find that the evidence supports the Landlords' claims for an immediate end to the tenancy.

Furthermore, I do not find it would be unreasonable or unfair for the Landlords or other occupants to wait for a Notice to End Tenancy under section 47 of the Act. I note that the Landlords have issued the Tenant a one month Notice to End Tenancy under section 47 of the Act and I am informed there is an upcoming hearing regarding that Notice.

As it is clear there is a problem between the parties, there is nothing preventing the parties from entering into a mutual agreement to end tenancy, which would avoid further disputes and escalating tensions. I am enclosing a copy of a form that could be used by the parties.

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: April 15, 2010.

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Dispute Resolution Officer