



# 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.

The landlord appeared and gave testimony that the tenant was served with the Notice of hearing in person on September 10, 2010. Despite being properly served, the tenant did not appear.

### Issue(s) to be Decided

Is the landlord entitled to end the tenancy without notice pursuant to section 56 of the Act?

### Background and Evidence

The tenancy began on July 1, 2010 with rent set at \$825.00 and a security deposit of \$412.50 was paid. Submitted into evidence by the landlord was a copy of the tenancy agreement and addendums signed by the parties, one of which specified that the tenant and associates of the tenant , "*shall not engage in any criminal activity on the premises...including: (a) Any drug-related activity (including smoking marijuana) (b) Solicitation (sex-trade workers and related nuisance activity) (c) Street gang activity (d) Assault or threatened assault (e) Unlawful use of a firearm (f) Any criminal activity that threatens the health, safety or welfare of the landlord, other residents or persons on the residential property or residential premises.*"

The addendum goes on to state that "*VIOLATION OF THE ABOVE PROVISIONS, WHICH IS A REASONABLE AND MATERIAL TERM OF THE*

*TENANCY AGREEMENT, SHALL BE GOOD CAUSE FOR A NOTICE TO END TENANCY.”* The landlord testified that this provided that the tenancy would be ended if the tenant violated that above provisions.

The landlord testified that there were a few complaints about noise but recently the landlord was made aware that the tenant was being investigated for running a prostitution ring from the suite. The landlord testified that on September 8, 2010 the tenants were arrested by police and the landlord made application to end the tenancy without notice.

The landlord is seeking an immediate Order of Possession without Notice under section 56, because the landlord contends that any delay in enforcing a Notice for Cause would be unreasonable and unfair to the landlord and other residents in the complex.

### **Analysis**

Section 56 of the Residential Tenancy Act provides that a landlord may make an application for dispute resolution to request an order 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*], and granting the landlord an order of possession in respect of the rental unit.

Before issuing an Order ending the Tenancy under section 56 a Dispute Resolution Officer must be satisfied under section 56(2) that both of the following has been proven:

a) 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 interest of the landlord or another occupant;
- put the landlord's property at significant risk;

Has engaged in illegal activity that:

- has caused or is likely to cause damage to the landlord's property,
- 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
- 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**

(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.

In regards to the landlord's position that the tenant has violated the tenancy, based on the addendum prohibiting criminal activity as a material term of the tenancy, I find that, under section 47 of the Act, a landlord may issue a One-Month Notice to End Tenancy for Cause if the tenant has: (i) has failed to comply with a material term, and (ii) has not corrected the situation within a reasonable time after the landlord gives written notice to do so;

However, I find that this transgression, i.e. breaching a term of the tenancy, is not one of the factors included in criteria listed under section 56 of the Act to end a tenancy without notice.

The landlord also testified that aside from merely breaching a material term, the tenant's conduct would also warrant an immediate end to the tenancy without notice based on the following points:

- There have been some ongoing complaints from other residents in the building about noise and disturbances by the tenant
- It has been confirmed that the tenant engaged in illegal activities of a high-risk nature that included operating a brothel on the premises

- The landlord verified through inspection of the suite that the tenant had added numerous occupants not identified on the lease without the landlord's knowledge or permission who are evidently part of the "business"
- Unwanted "customers" and pimps have apparently frequenting the complex at all hours of the day and night and there is reason to believe that the occupants or their associates may be in possession of weapons
- There has been a police presence, including surveillance of the premises and formal charges are now being pursued by law-enforcement

The landlord believes that the above factors would satisfy section 56(2)(iv) of the Act in that the tenant has engaged in illegal activity that is very likely to adversely affect the quiet enjoyment, security, safety or physical well-being of another occupant of the residential property and is likely to jeopardize a lawful right or interest of another occupant or the landlord. The landlord believed that the second part of the criteria was also met in that it would be unreasonable and unfair to force the landlord to wait for a One-Month Notice to End Tenancy for Cause to take effect under section 47 of the Act.

Based on the evidence and the testimony of the landlord, I find that the landlord has presented sufficient evidence to prove that this situation would adequately satisfy the criteria specified in section 56(2) of the Act. Despite the fact that no individual was overtly threatened nor significantly bothered as of yet, due to the nature of the conduct in question, I find it evident that these circumstances meet the second threshold under 56(2)(b) and that it would be unreasonable, or unfair to force the landlord to wait for a notice to end the tenancy under section 47 *[landlord's notice: cause]* to take effect.

I find that the landlord and other residents have been placed in a position of significant risk given the nature of the conduct in question. Therefore the situation needs to be addressed without further delay to eliminate this risk .

## **Conclusion**

Accordingly, I hereby order that this tenancy is ended and I grant the Landlord an Order of Possession effective two days after service. This order must be served on the Respondent and may be filed in the Supreme Court and enforced as an order of that Court.

The landlord is entitled to retain \$50.00 to reimburse for the filing fee from the tenant's security deposit, the remainder of which should be administered according to section 38 of the Act.

September 2010

Date of Decision

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Dispute Resolution Officer