



# 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 tenant was served on August 26, 2010 with the Notice of hearing. 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 on July 15, 2010 for a month to month tenancy. The rent for this unit is \$1,000.00 each month which is due on the first of each month. The tenant paid a security deposit of \$500.00. Of this \$400.00 was paid on July 09, 2010 and \$100.00 was paid with the half of the rent on July 09, 2010.

The landlord states that the tenant did not pay rent for August, 2010 he went to speak to the tenant about this and an argument occurred. The landlord states the tenant only wanted to pay \$700.00 in rent. The landlord said he could only reduce the rent by \$100.00. On August 02, 2010 the landlord claims the tenant threatened him and the Police were called. The tenant was arrested for threatening behaviour but was released. He gave a police file number for this incident. The landlord served him with a 10 Day Notice to End Tenancy on August 03, 2010. He returned to the property on August 16, 2010 when he claims the tenant laughed at him and told

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him he would have to get the courts to get him out. Since that time the tenant has not paid rent for September, 2010.

The landlord states he then went back with his witness. The landlord states he has not been inside the rental unit and has no evidence to support his fears that the tenant has damaged the property.

The landlords witness also gave evidence. He claims he accompanied the landlord to the rental property. On the first occasion he attempted to talk to the tenant to help the tenant and landlord reach an agreement. He found the tenant had caused damage to the lawn by driving his vehicle on it. He claims the tenant told him that that was just the beginning and he threatened to destroy the house and yard. The witness states he went back on the second occasion with the landlord and the tenant was there with his father kicking a ball around the yard. He also had a baseball bat and threatened to wreak the witnesses' car with it. He claims both the tenant and his father were threatening him and trying to pick a fight. The Police were called again but left as they stated there was nothing they could do.

The tenant questions the landlords' witness. The tenant asks the witness if he threatened him by saying he was going to move the tenant out and he hoped he can sleep properly. The tenant stated this was an implied threat. The tenant states the witness parked in his driveway and he asked him to move his car. The tenant states they did get into an argument but he did not push him or touch him in any way. The tenant claims the damage to the lawn was already there at the start of his tenancy and he did use the lawn to manoeuvre his vehicle on as it was already damaged. The tenant states the yard was in a mess as the landlord did not remove all his garbage before the tenancy started

The landlord questions his witness and asks him if the stuff on the property is his. The witness replies yes it is not garbage but stuff belonging to the landlord.

The tenant testifies that he did not pay his rent for August as he had to move out for a week and a half as the well had run dry and the landlord did not repair it. The landlord also had to sand

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and finished the floors as they reeked of cat urine despite the tenant having cleaned them numerous times with bleach. The tenant states he offered \$700.00 to the landlord for rent for August, 2010 as he had to stay in a hotel and he could not live in a house where the well ran dry each week as he had no water to cook, drink, wash, flush the toilet or give his pets. The tenant claims when the landlord only offered to take \$100.00 off the rent he felt insulted and an argument broke out. The tenant claims the landlord has broken into his house and has damaged one of his security cameras. He gave a police file number for this incident.

The tenant testifies that the landlord has threatened him and planted false evidence against him concerning shotgun shells when he doesn't own a shotgun but a soft air gun. He claims the landlord called the Police over this incident telling them he had a gun in his house but when the police arrived he showed them his air rifle.

The tenant states he has attempted to pay his rent to the landlord and the landlord's mother but there is now a "no contact Order" out between them from the Police. The tenant also states he intends to move from the rental unit this weekend.

## 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,

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(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 landlords have provided inconclusive evidence, pursuant to section 56 of the *Act*, to show that the tenant has significantly interfered with or unreasonably disturbed the landlord of the residential property; seriously jeopardized the health or safety or a lawful right or interest of the landlord; or put the landlord's property at significant risk.

While I am satisfied that there is some evidence, that an altercation has taken place between the landlord and the tenant I find this arose from an argument about the rent and has escalated between both Parties to the point that both Parties have called the Police. The tenant has stated at the hearing that he intends to move from the rental property this coming weekend and in this instance I am not satisfied that an Early End to Tenancy is called for and it would not be unreasonable or unfair to the landlord to wait for a Notice to End Tenancy under section 47 or 46 (landlords notice: cause or 10 Day Notice) to take effect.

I would strongly suggest that both Parties observe the Police Order for no contact until such a time as the tenant vacates the rental unit or the landlord seeks an Order of Possession for unpaid rent or cause.



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## 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: September 02, 2010.

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Dispute Resolution Officer