

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This is an application filed by the Landlord requesting an early end to the tenancy and to obtain an order of possession and the recovery of the filing fee.

The Landlord attended the hearing by conference call and gave testimony. The Tenant did not attend. The Landlord states that the Tenant was served with the notice of hearing package in person on March 14, 2012. The Landlord's witness, E.W. has confirmed in direct testimony that the Tenant was served with a copy of Landlord's application. Based upon the witness's direct testimony, I accept that the Tenant was properly served with the notice under the Act.

### Issue(s) to be Decided

Has the Landlord established grounds for early termination of the tenancy?

### Background and Evidence

The Landlord claims that the rental property is in imminent danger due recent and current highly unstable behaviour on the part of the Tenant.

The Landlord states that the Tenant has been talking about murder, rape and vampires coming to her apartment and has frightened the tenants in the unit below into vacating the premises. The Landlord states that police were called on numerous occasions. The Landlord has submitted a copy of a request for information under the freedom of information act for a list of police file numbers. The Landlord has submitted a copy of a list of approximately 11 police file numbers relating to the rental property. The Landlord submits that a letter of complaint was received from the Tenant's flat mate as well as numerous calls of complaints from other Tenants. No letters of complaint have been submitted into evidence.

### Analysis

Section 56 of the Residential Tenancy Act states,

**Application for order ending tenancy early**

56 (1) 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*], and
- (b) 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) (a),**

(2) 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,

(a) the tenant or a person 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

(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.

Although the Landlord provided direct testimony that the Tenant displayed bizarre and destructive behaviour causing the Tenant's flat mate and other Tenants, the Landlord

has failed to provide any supporting evidence or any specifics regarding these claims. The Landlord has made reference to a letter of complaint from the flat mate, A.L., but has failed to submit a copy of this statement or any of evidence of complaints made by other Tenants.

Based upon the testimony of the Landlord, there is no evidence of urgency or imminent danger to another occupant. I find that the Landlord has failed to satisfy the criteria specified in Section 56 (2) (a) of the Act.

### Conclusion

The application is dismissed as not being proven.

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: March 20, 2012.

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Residential Tenancy Branch